



# **Revised State Implementation Guidance for the Public Notification (PN) Rule**

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### *Disclaimer*

This document provides guidance to states, tribes, and the US Environmental Protection Agency (EPA) exercising primary enforcement responsibility under the Safe Drinking Water Act (SDWA) and contains EPA's current policy recommendations for complying with the Public Notification (PN) Rule. Throughout this document, the terms "state" and "states" are used to refer to all types of primacy agencies including US territories, Indian tribes, and EPA.

The statutory provisions and EPA regulations described in this document contain legally binding requirements. This document is not a regulation itself, nor does it change or substitute for those provisions and regulations. Thus, it does not impose legally binding requirements on EPA, states, or public water systems (PWSs). This guidance does not confer legal rights or impose legal obligations upon any member of the public.

While EPA has made every effort to ensure the accuracy of the discussion in this guidance, the obligations of the regulated community are determined by statutes, regulations, or other legally binding requirements. In the event of a conflict between the discussion in this document and any statute or regulation, this document would not be controlling.

The general description provided here may not apply to a particular situation based upon the circumstances. Interested parties are free to raise questions and objections about the substance of this guidance and the appropriateness of the application of this guidance to a particular situation. EPA and other decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from those described in this guidance, where appropriate.

Mention of trade names or commercial products does not constitute endorsement or recommendation for their use.

This is a living document and may be revised periodically without public notice. EPA welcomes public input on this document at any time. Guidance provided in this document reflects provisions published on May 4, 2000, at 65 FR 26021; 65 FR 38629, June 21, 2000; 65 FR 40521 - 40522, June 30, 2000; and as amended at 65 FR 76750, December 7, 2000; 66 FR 7065, January 22, 2001; 66 FR 31104, June 8, 2001; 67 FR 1836, January 14, 2002; 67 FR 70857, November 27, 2002; 68 FR 14507, March 25, 2003; 69 FR 38856, June 29, 2004; 71 FR 483, January 4, 2006; 71 FR 768, January 5, 2006; and 71 FR 65652, November 8, 2006.

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## Acronyms and Abbreviations

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Acronym/Abbreviation	Definition
ASDWA	Association of State Drinking Water Administrators
AWWA	American Water Works Association
CCR	Consumer Confidence Report
CFR	Code of Federal Regulations
CWSs	Community Water Systems
EPA	United States (US) Environmental Protection Agency
FBRR	Filter Backwash Recycling Rule
FR	Federal Register
GAO	General Accounting Office
GWR	Ground Water Rule
GWS	Ground Water System
GWUDI	Ground Water Under the Direct Influence (of Surface Water)
HAA5	Haloacetic Acids
HPC	Heterotrophic Plate Count
HQ	Headquarters
IESWTR	Interim Enhanced Surface Water Treatment Rule
IOC	Inorganic Chemical
LCR	Lead and Copper Rule
LT1ESWTR	Long-Term 1 Enhanced Surface Water Treatment Rule
LT2ESWTR	Long-Term 2 Enhanced Surface Water Treatment Rule
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
mg/l	Milligrams per liter
MRDL	Maximum Residual Detection Level
MRDLG	Maximum Residual Disinfectant Level Goal
NCWS	Noncommunity Water System
NIPDWR	National Interim Primary Drinking Water Regulation
NOV	Notice of Violation
NPDWR	National Primary Drinking Water Regulation
NTNCWS	Nontransient Noncommunity Water System
NTU	Nephelometric Turbidity Unit
OECA	Office of Enforcement and Compliance Assurance
OGC	Office of General Counsel
OGWDW	Office of Ground Water and Drinking Water
ORC	Office of Regional Counsel

<b>Acronym/Abbreviation</b>	<b>Definition</b>
OW	Office of Water
PN	Public Notification
PWS	Public Water System
PWSS	Public Water System Supervision
Q&A	Question and Answer
RTC	Return to Compliance
SBREFA	Small Business Regulatory Enforcement Fairness Act
SDWA	Safe Drinking Water Act
SDWIS	Safe Drinking Water Information System
SMCL	Secondary Maximum Contaminant Level
SNC	Significant Non-complier
SOC	Synthetic Organic Chemical
Stage 1 DBPR	Stage 1 Disinfectants and Disinfection Byproducts Rule
Stage 2 DBPR	Stage 2 Disinfectants and Disinfection Byproducts Rule
SWAP	Source Water Assessment Program
SWTR	Surface Water Treatment Rule
TCR	Total Coliform Rule
TNCWS	Transient Noncommunity Water System
TT	Treatment Technique
TTHMs	Total Trihalomethanes
UV	Ultraviolet
VOC	Volatile Organic Chemical

# Introduction

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This document provides guidance to states and the US Environmental Protection Agency (EPA) exercising primary enforcement responsibility under the Safe Drinking Water Act (SDWA), concerning how EPA interprets the Public Notification (PN) Rule promulgated under the SDWA. It also provides guidance to the public and the regulated community on how EPA intends to exercise its discretion in implementing the statute and regulations. This guidance is designed to implement national policy on these issues. Throughout this document, the terms “state” and “states” are used to refer to all types of primacy agencies including states, US territories, Native American tribes, and EPA regional offices that maintain state primacy.

The SDWA provisions and EPA regulations described in this document contain legally binding requirements. This document does not substitute for those requirements, nor is it a regulation itself. It does not impose legally binding requirements on EPA, states, or the regulated community and may not apply to a particular situation based upon the circumstances. EPA and state decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance, where appropriate. Any decisions regarding a particular facility will be made based on the applicable statutes and regulations. Therefore, interested parties are free to raise questions and objections about the appropriateness of the application of this guidance to a particular situation. EPA will then consider whether or not the recommendations or interpretations in the guidance are appropriate in that situation based on the law and regulations. EPA may change this guidance in the future.

This document contains the following sections:

- Section 1 summarizes the Rule requirements of the PN Rule and presents a timetable of important dates.
- Section 2 lists the “stand-alone” guidance materials that will help states and public water systems (PWSs) implement each requirement.
- Section 3 discusses state implementation activities.
- Section 4 covers state primacy revision requirements, including a detailed time frame for application review and approval. This section also contains guidance and references to help states adopt each new special primacy requirement included in the PN Rule.
- Section 5 addresses violation determinations and associated reporting requirements to assist states in their compliance activities.

The appendices of this guidance also provide information that will be useful to states and EPA:

- Appendix A contains the primacy revision application crosswalk for the PN Rule.
- Appendix B contains a copy of the PN Rule (July 1, 2008, edition).
- Appendix C contains fact sheets and a quick reference guide for the PN Rule.
- Appendix D presents flowcharts to help states and systems implement the PN Rule.

- Appendix E contains a stand alone version of the State Primacy Revision Checklist and Example Forms.

Please note that, in several sections, this guidance makes suggestions and offers alternatives that go beyond the minimum requirements indicated. EPA does this to provide information and/or suggestions that may be helpful to implementation efforts. Such suggestions are prefaced by “may” or “should” and are to be considered advisory. They are not required elements of the PN Rule.

Since the last revision of this guidance, EPA has published the following regulations:

- Arsenic Rule – January 22, 2001.
- Filter Backwash Recycling Rule (FBRR) – June 8, 2001.
- Long-Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) – January 14, 2002.
- Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) – January 4, 2006.
- Long-Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) – January 5, 2006.
- Ground Water Rule (GWR) – November 8, 2006.
- Lead and Copper Rule (LCR) Short Term Regulatory Revisions and Clarifications – October 10, 2007.
- Miscellaneous corrections to existing rules.
- Miscellaneous revisions or additions to analytical methods, detection limits and compliance dates.

This guidance has been updated to reflect these rules, where appropriate. Changes to the PN Rule based on these regulations occurs primarily in Appendix A to Title 40 of the Code of Federal Regulations (CFR), Part 141, Subpart Q (hereafter referred to as Appendix A to Subpart Q) which lists contaminant violations or situations by tiers and Appendix B to Title 40 of the Code of Federal Regulations (CFR), Part 141, Subpart Q (hereafter referred to as Appendix B to Subpart Q) which lists contaminants, their maximum contaminant level (MCL) (or treatment technique, TT), maximum contaminant level goal (MCLG), and health effects language. These appendices are located on the EPA Web site at <http://www.epa.gov/safewater/publicnotification/regulations.html>.

The PN Rule applies to the new regulations listed above in the following manner:

- Arsenic Rule: Systems must provide Tier 2 public notice if they have an exceedance of the arsenic MCL and Tier 3 public notice if they fail to monitor for arsenic.
- Filter Backwash Recycling Rule (FBRR): Systems must provide Tier 2 public notice for the treatment technique violation of failing to return water treatment recycle flows to the required location or a state-approved location.
- Long-Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR): A surface water system must provide Tier 2 public notice for treatment technique violations including a single exceedance of a maximum turbidity limit (can be elevated to Tier 1) or construction of an uncovered finished water reservoir; and Tier 3 public notice for failure to notify the state before

making a change to a disinfection practice, failure to conduct disinfection profiling and benchmarking, and failure to monitor for turbidity.

- Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR): Based on a system's schedule under the Stage 2 DBPR, systems must provide Tier 2 public notice if their locational running annual average for total trihalomethanes (TTHMs) or haloacetic acid 5 (HAA5) exceeds the MCL and Tier 3 public notice if they fail to monitor for TTHMs or HAA5 under Stage 2 DBPR.
- Long-Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR): Based on a system's schedule under the LT2ESWTR, a surface water system must provide notices for the following violations:
  - Tier 2 public notice for failure to monitor for *Cryptosporidium* for any three months.
  - Tier 2 public notice for treatment technique violations including failure to address an uncovered finished water reservoir (i.e., cover or treat); failure to determine and report a bin classification (filtered systems); failure to calculate and report a mean *Cryptosporidium* level (unfiltered systems); failure to provide, install or maintain a required level of additional treatment (filtered systems); failure to achieve the required inactivation level or maintain it once achieved (unfiltered systems); and failure to install a second disinfectant (unfiltered systems).
  - Tier 3 public notice for failure to monitor for *E. coli* and turbidity, failure to monitor for *Cryptosporidium* for one or two months, and failure to conduct disinfection profiling and benchmarking.
- Ground Water Rule: Beginning on December 1, 2009, a ground water system must provide notice for the following violations or situations:
  - Tier 1 public notice when the system detects a fecal indicator (*E. coli*, enterococci, coliphage) at the source.
  - Tier 2 public notice for treatment technique violations including failure to maintain 4-log treatment of viruses for more than 4 hours for systems required to treat to 4-log, failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a fecal indicator-positive source sample, and failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a significant deficiency.
  - Tier 3 public notice for failure to conduct source water monitoring for fecal indicators or compliance monitoring.
- Lead and Copper Rule (LCR) Short Term Regulatory Revisions and Clarifications: The minor revisions to the LCR did not affect the PN Rule.

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# **Section 1**

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## **Rule Requirements**

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## 1.1 Introduction

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Public notification of drinking water violations and other situations that can impact public health provides water systems with a means to protect public health, build trust with consumers through open and honest sharing of information, and establish an ongoing, positive relationship with the community. Public notification can also help consumers understand the reason for rate increases and support increased funding for drinking water treatment and protection. EPA believes the requirements established by the Public Notification (PN) Rule allow systems to provide consumers with accurate and timely information on violations and situations with potential adverse health effects.

EPA first issued public notification regulations in 1976 and revised them in 1987. In 1992, a review of the public notification process by the General Accounting Office (GAO) revealed that the complexity of the Rule hindered its successful implementation. Section 114 of the 1996 Amendments to the Safe Drinking Water Act (SDWA), required EPA to amend the public notification provisions issued in 1987 to better target notices for serious violations posing short-term exposure risks to health, and to make the existing notification process less burdensome to public systems and more effective.

The revised PN Rule, published in the *Federal Register* on May 4, 2000, modified the minimum requirements PWSs must meet regarding the form, manner, frequency, and content of public notices. The regulations apply to all public water systems with violations of National Primary Drinking Water Regulations (NPDWRs) or other situations posing a health risk. Since then, promulgation of each new NPDWR has included some modification to the PN regulation. These incremental modifications are reflected in the revised Handbooks discussed below and this Implementation Guidance.

States with primary enforcement responsibility (primacy) were required to revise their drinking water programs by adopting regulations that were at least as stringent as the revised public notification requirements. Primacy agency regulations needed to be adopted as soon as possible but no later than May 6, 2002.

To aid water systems in implementing the revised regulation, EPA, with assistance from the Association of State Drinking Water Administrators (ASDWA), developed a Public Notification Handbook (EPA 816-R-00-010) in June 2000. In order to capture the requirements of more recently promulgated regulations, a revised Public Notification Handbook (EPA 816-R-07-003) specifically for Community Water Systems (CWSs) and Non-transient Noncommunity Water Systems (NTNCWs) was published in March 2007 as well as a Transient Noncommunity Water Systems (TNCWS) Public Notification Handbook, which was developed to only include provisions specific to transient systems (EPA 816-R-07-004). A second revision to both the CWS and NTNCWS PN Handbook (EPA 816-R-09-013) and the TNCWS PN Handbook (EPA 816-R-09-009) were reviewed by ASDWA and American Water Works Association (AWWA) and are being published concurrently with this document.

The most recent Handbooks include templates for public notices for many violations and other situations included in EPA drinking water regulations published to date (March 2010), and other aids to help water systems develop their own notices. By explaining the PN Rule and providing specific examples of notices in the Handbooks, EPA hopes to streamline the public notification process and enhance the water systems' ability to comply with Federal and state requirements. EPA also encourages states to incorporate the most recent versions of both the CWS and NTNCWS PN Handbook and the TNCWS PN Handbook into their public notification program. The most recent Handbooks are located on the EPA Web site at <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

## 1.2 Requirements of the Rule: Public Water Systems

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### 1.2.1 Applicability and Compliance Dates

The PN Rule requires public water systems (PWSs) to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize such risks. The revised PN Rule modified the minimum requirements PWSs must meet regarding the form, manner, frequency, and content of public notices. States with primary enforcement responsibility (primacy) were required to revise their drinking water programs by adopting regulations that are at least as stringent as the revised public notification requirements as soon as possible but no later than May 6, 2002.

The timetable for the PN Rule is presented in Table 1-1.

**Table 1-1. Summary of Action Dates for the PN Rule**

Key Date of Rule	PN Rule Requirement
May 4, 2000	PN Rule published in <i>Federal Register</i> .
October 31, 2000	PN Rule effective for Direct Implementation programs.
February 4, 2002	States were encouraged to submit final primacy applications or extension requests to EPA.
May 5, 2002	Until this date, systems in primacy states without approved primacy for the PN Rule had to continue to comply with the public notification requirements under 40 CFR 141.32.
May 6, 2002	Final primacy application had to be submitted to the EPA Regional Administrator or a request for an extension for up to 2 years. [40 CFR 142.12(b)(1)].
May 6, 2002	PN Rule was effective for states with primacy for the Public Water System Supervision (PWSS) program.
February 4, 2004	States with approved extension agreements were encouraged to submit final primacy applications to EPA.
May 6, 2004	Final primacy revision applications for Public Notification (PN) Rule must be submitted to the EPA Regional Administrator if state was granted an extension.

#### 1.2.1.1 To Whom Does The Rule Apply?

The PN Rule applies to all PWSs with violations of national primary drinking water regulations (NPDWRs) or other situations posing a public health risk. Each owner or operator of a PWS (CWSs, NTNCWSs, and TNCWSs) must provide a public notice to all persons served when the system fails to comply with certain drinking water regulations, has been granted a variance or exemption from the regulations, or is facing other situations posing a potential risk to public health.

In general, public notice is required for any of the following violations:

- Exceedances of MCLs or maximum residual disinfectant levels (MRDLs).
- Violation of treatment techniques.

- Monitoring and testing procedure violations.
- Failure to comply with the schedule of a variance or exemption.

Other situations (not violations) which require public notice include:

- Occurrence of a waterborne disease outbreak or other waterborne emergency.
- Fecal indicator-positive ground water source sample.
- Exceedance of the nitrate MCL in noncommunity water systems (NCWSs) that have been granted permission by the state to continue to exceed the nitrate MCL of 10 milligrams per liter (mg/l) (although they may not exceed 20 mg/l).
- Exceedance of the fluoride secondary MCL (SMCL).
- Availability of unregulated contaminant monitoring results.
- Operation under a variance or exemption.

States may also require notice for other violations or situations.

#### **1.2.1.2 What Are The Compliance Dates?**

PWSs in states with primacy for the Public Water System Supervision (PWSS) Program were required to comply with the regulations under Part 141, Subpart Q no later than May 6, 2002. PWSs in jurisdictions where EPA directly implements the PWSS program were required to comply by October 31, 2000.

### **1.2.2 Public Notice Tiers 1, 2, and 3**

**[40 CFR 141.202(a)-(b), 141.203(a)-(b), 141.204(a)-(b)]**

The PN Rule assigns violations of drinking water standards and other situations to three tiers based upon the risk of adverse health effects:

- Tier 1 applies to NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation or situation.
- Tier 2 applies to other NPDWR violations and situations with the potential to have serious adverse effects on human health. Notice is required within 30 days of the violation or situation, with the possibility of an extension of up to three months at the discretion of the state.
- Tier 3 applies to all other NPDWR violations and situations not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation or situation.

The tier to which a violation or situation is assigned determines the form, manner, and timing of the public notice. EPA believes this linkage between the tier and the form, manner, and timing will allow water systems to effectively tailor the public notice to the health risk from each violation.

### 1.2.3 Public Water System Reporting Requirements

**Table 1-2. PWS Requirements for Reporting to the State Under the PN Rule**

<b>PWS Requirements for Reporting to the State</b>	<b>Rule Cite</b>
The public water system, within 10 days of completing the public notification requirements under Subpart Q of this part for the initial public notice and any repeat notices, must submit to the state a certification that it has fully complied with the public notification regulations. The public water system must include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.	40 CFR 141.31(d)

### 1.2.4 Public Water System Recordkeeping Requirements

**Table 1-3. PWS Recordkeeping Requirements Under the PN Rule**

<b>PWS Recordkeeping Requirements</b>	<b>Rule Cite</b>
Copies of public notices issued pursuant to Subpart Q of this part and certifications made to the state pursuant to 40 CFR 141.31 must be kept for three years after issuance.	40 CFR 141.33(e)

## 1.3 Requirements of the Rule: States or Other Primacy Agencies

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### 1.3.1 Special Primacy Requirements

#### **[40 CFR 142.16(a)]**

In addition to adopting basic primacy requirements specified in 40 CFR 142, states are required to adopt primacy provisions pertaining to specific regulations where implementation of the Rule involves activities beyond general primacy provisions. States must include these rule-distinct provisions in an application for approval or revision of their programs. Refer to Section 4.4 for additional information on special primacy requirements.

### 1.3.2 Records Kept by States

**Table 1-4. State Recordkeeping Requirements**

<b>State Recordkeeping Requirements</b>	<b>Rule Cite</b>
Public notification records under Subpart Q of Part 141 of this chapter received from public water systems (including certifications of compliance and copies of public notices) and any state determinations establishing alternative public notification requirements for the water systems must be retained for three years.	40 CFR 142.14(f)

### 1.3.3 State Reporting Requirements

Under 40 CFR 142.15, EPA currently requires states to report to EPA information such as violations, variance and exemption status, and enforcement actions. Table 1-5 describes the additional reporting requirements for states under the PN Rule. Section 5 of this document provides information on Safe Drinking Water Information System (SDWIS) reporting for the PN Rule.

**Table 1-5. State Requirements for Reporting to EPA**

<b>State Requirements for Reporting to EPA</b>	<b>Rule Cite</b>
Each state which has primary enforcement responsibility shall submit quarterly reports to the administrator on a schedule and in a format prescribed by the Administrator consisting of the following information:  (1) New violations by public water systems in the state during the previous quarter of state regulations adopted to incorporate the requirements of national primary drinking water regulations, including violations of the public notification requirements under Subpart Q of Part 141 of this chapter.	40 CFR 142.15(a)(1)

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## **Section 2**

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# **Resources and Guidance**

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In addition to this Implementation Guidance Manual, a variety of resource materials and technical guidance documents have been prepared by EPA to facilitate understanding and implementing the PN Rule. This section is an overview of each of these resources and includes information on where to get them.

## 2.1 Technical Guidance Manuals and Tools

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The following guidance manuals and tools have been developed to support implementation of, and compliance with, the provisions of the PN Rule. These manuals and tools will aid EPA, state agencies, and affected PWSs in implementing this Rule, and will help ensure that the implementation among these groups is consistent. The following resources can be found on EPA's Web site at:

<http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

- *Revised Public Notification Handbook for Community and Non-transient Non-community Water Systems*. EPA 816-R-09-013, March 2010. This guide was developed for community water systems and non-transient noncommunity water systems. It provides instructions and templates that can be used for various types of public notices.
- *Revised Public Notification Handbook for Transient Non-community Water Systems*. EPA 816-R-09-009, March 2010. This guide was developed for transient noncommunity water systems. It provides instructions and templates that can be used for various types of public notices.
- Updated version of Appendix A and B to Subpart Q which were last updated December 2006.
- Microsoft Word files of PN templates. These templates can be used and customized by drinking water systems to ensure they meet PN content requirements.
- PNiWriter. EPA developed the PNiWriter to enable water system operators or other designated personnel to generate a public notice that meets federal requirements. The program takes users through the 10 required elements of a public notice and allows them to edit EPA's recommended text and/or insert their own text to fit their violation or situation. Since PNiWriter is a Web-based application (<http://www.pniwriter.com>), Internet access is required.
- *Talking to your Customers about Chronic Contaminants in Drinking Water*. EPA 814-F-07-022, October 2007. This document provides guidance to water systems on the importance of communicating with the public about chronic contaminants – both regulated and unregulated. It also describes effective strategies for getting the message out.

In addition to the guidance manuals developed to support the PN Rule, EPA has developed other guidance manuals that may help primacy agencies and affected PWSs with implementing the PN Rule.

- *Implementation Guidance for the Filter Backwash Recycling Rule*. EPA 816-R-04-006, June 2004. <http://www.epa.gov/safewater/filterbackwash.html>.
- *Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) Implementation Guidance*. EPA 816-R-04-008, August, 2004. <http://www.epa.gov/safewater/mdbp/lt1eswtr.html>.
- *The Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) Implementation Guidance*. EPA 816-R-07-007, August 2007. <http://www.epa.gov/safewater/disinfection/stage2/compliance.html>.

- *The Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) Implementation Guidance.* EPA 816-R-07-006, August 2007.  
<http://www.epa.gov/safewater/disinfection/lt2/compliance.html>.
- *The Ground Water Rule (GWR) Implementation Guidance.* EPA 816-R-09-004, January 2009.  
<http://www.epa.gov/safewater/disinfection/gwr/compliancehelp.html>.

For more information, contact EPA's Safe Drinking Water Hotline at 1-800-426-4791, or see the Office of Ground Water and Drinking Water Web site. The PN guidance documents are located at <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

## 2.2 Rule Presentation

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Presentations that can be used for workshops on the PN Rule are available in PowerPoint format on EPA's Web site: <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

## 2.3 Fact Sheets and Quick Reference Guide

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Factsheets and Quick Reference Guides for the PN Rule may be useful for conveying basic information about the Rule to water systems, new personnel, and stakeholders. These stand alone documents, included in Appendix C of this document, are:

- *Public Notification Rule: A Quick Reference Guide.* EPA 816-F-09-010. August 2009.  
<http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.
- *Fact Sheet: Drinking Water Public Notification.* EPA 816-F-00-021, May 2000.  
<http://www.epa.gov/safewater/publicnotification/regulations.html>.
- *Fact Sheet: Final Drinking Water Public Notification Regulations.* EPA 816-F-00-020, May 2000. <http://www.epa.gov/safewater/publicnotification/regulations.html>.
- *Ground Water Rule Factsheet: Public Notification, Consumer Confidence Report, and Special Notice Requirements for Community Water Systems.* EPA 816-F-08-026. June 2008.  
<http://www.epa.gov/safewater/disinfection/gwr/compliancehelp.html>.
- *Ground Water Rule Factsheet: Public Notification and Special Notice Requirements for Noncommunity Water Systems.* EPA 816-F-08-030. June 2008.  
<http://www.epa.gov/safewater/disinfection/gwr/compliancehelp.html>.

## 2.4 Questions & Answers

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Some questions and Answers (Q&As) on the PN Rule are provided in this section. These questions have been asked of EPA through the Safe Drinking Water Hotline, implementation training, or other means.

### Q1. What is public notification?

- A1. Public notification is intended to ensure that consumers will always know if there is a problem with their drinking water. Public water systems must notify the people who drink their water if the level of a contaminant in the water exceeds EPA and state drinking water

regulations, if there is a waterborne disease outbreak or any other situation that may pose a risk to public health, if the water system fails to test its water as required, or if the system has a variance or exemption from the regulations. Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers. EPA sets strict requirements on the form, manner, content, and frequency of public notices. Public notification is provided in addition to the annual water quality report (consumer confidence report, or CCR), which provides customers with a more complete picture of drinking water quality and system operations. The annual CCR tells consumers what's in their water, where it comes from, and where they can obtain additional information.

**Q2. What action is EPA taking?**

A2. Public notice provisions have existed in the SDWA since its enactment in 1974. Public notification regulations were first revised in 1987 and again in 2000 (*Federal Register* 65 FR 25981 on May 4, 2000). The revised regulations require fewer notices overall, faster notice in emergencies, and notices that better communicate the potential health risks from drinking water violations and how to avoid such risks. The 2000 Rule made the notification process less burdensome for water suppliers, while enabling them to better target notices to the seriousness of the risk and to make notices easier to read for consumers. Since then, the PN Rule has undergone minor modifications with promulgation of each new drinking water regulation to incorporate any PN requirements specific to that rule.

**Q3. What changes were made to the public notification requirements from the previously published Rule to the Rule published on May 4, 2000?**

A3. The changes are as follows:

- 24-hours notice. Water systems are required to distribute Tier 1 notices within 24 hours (instead of 72 hours) for violations posing acute health risks due to short-term exposure. In addition, the number of violations and situations requiring a Tier 1 notice were significantly expanded from the previous Rule.
- Consultation requirement. Water systems must consult with the state or EPA within 24 hours of notification of a Tier 1 violation or situation to receive direction on subsequent requirements.
- 30-day notice for other serious violations. The notice deadline for violations of maximum contaminant levels or treatment techniques which do not pose an immediate threat to human health is extended from 14 days to 30 days, with possible extension to 3 months (Tier 2).
- 12-month notice for non-serious violations. The notice deadline for all other violations is extended from 3 months to 12 months, allowing a single annual report where applicable (Tier 3). Systems may choose to include this notice in their annual consumer confidence report (CCR).
- Simplified standard language. The existing standard health effects language is simplified, consistent with the CCR requirements. New standard language is now required for monitoring violations. Recipients of public notices are also encouraged, through standard distribution language in notices, to further distribute the notices to people who may not receive a notice (such as tenants or hospital patients).

- Streamlined distribution of notices. Under the previous Rule, water systems were required to use specific multiple delivery methods when distributing notices. The revised Rule requires water systems to select a single minimum method for each tier and to take additional steps of their own choosing that are reasonably calculated to reach all the other persons served. The minimum required methods of delivery listed in the revised regulation include the media, hand delivery, or posting for Tier 1 notices, and direct mail, hand delivery, or posting for Tier 2 and Tier 3 notices.
- Certification of Compliance. The revised Rule requires a water system to certify to the state within 10 days that it has met all public notice requirements. The previous Rule required only that a copy of the notices be sent to the state.

**Q4. How quickly do water systems have to send notices?**

A4. Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers after a violation or situation occurs. EPA specifies three categories, or tiers, of public notification. Depending on what tier a violation or situation falls into, water systems have different amounts of time to distribute the notice and different ways to deliver the notice:

- Immediate Notice (Tier 1): Any time a situation occurs where there is the potential for human health to be immediately impacted, water suppliers have 24 hours to notify people who may drink the water of the situation. Water suppliers must use media outlets such as television, radio, and newspapers, post their notice in public places, or personally deliver a notice to their customers in these situations.
- Notice as soon as possible (Tier 2): Any time a water system provides water with levels of a contaminant that violate EPA or state standards or that otherwise violates a treatment technique requirement but that doesn't pose an immediate risk to human health, the water system must notify its customers as soon as possible, but within 30 days of the violation. Notice may be provided via the media, posting, or through the mail.
- Annual Notice (Tier 3): When a water system violates a drinking water requirement (e.g., failing to take a required sample on time) or other situation (e.g., exceedance of the fluoride SMCL) that does not have a direct impact on human health, the water supplier has up to a year to provide a notice of this situation to its customers. The extra time gives water suppliers the opportunity to consolidate these notices and send them with annual water quality reports (for example, community water systems may include them in their consumer confidence reports).

**Q5. What information must be included in a notice?**

A5. All notices must include:

- A description of the violation or situation that occurred, including the potential health effects.
- When the violation or situation occurred.
- Potential adverse health effects.

- The population at risk.
- Whether alternate water supplies need to be used.
- Actions consumers can take.
- What the water system is doing to correct the problem.
- When the system expects the problem to be resolved.
- How to contact the water system for more information.
- Language encouraging broader distribution of the notice.

**Q6. How often do violations occur that require a public notice?**

- A6. Although serious water quality problems are rare, approximately 25 percent of the nation's 170,000 public water suppliers violate at least one drinking water standard every year and are required to provide public notice. The majority of these violations are due to the failure of water systems to complete all sampling in a timely manner. Only about one percent of the time do water systems incur a violation for a serious situation that requires immediate notification (Tier 1 public notice).

**Q7. What types of violations and situations are covered under each tier?**

- A7. The regulation contains an Appendix listing every violation and situation requiring a public notice and its tier (Appendix A to Subpart Q). The requirements for the timing of the public notice and the form and manner of its delivery are determined by the tier to which the violation or situation is assigned. For example, a total coliform violation where fecal coliform is present falls under Tier 1, which requires notification delivery within 24 hours (at a minimum) using appropriate broadcast media, posting, or hand delivery.

**Q8. What are EPA requirements for the form, manner, and content of the public notices?**

- A8. The PN Rule sets minimum methods of delivery under each tier, but also requires that water systems take steps reasonably calculated to reach others that may not be contacted by the primary method. Each notice must contain information addressing ten elements (see Q5 above), including use of standard health effects language for MCL and TT violations and standard language for monitoring violations. Public water systems serving a large proportion of non-English speaking consumers are also required to include information in the notice in languages other than English.

**Q9. Which public water systems are affected by the regulation?**

- A9. All public water systems are affected by the regulation regardless of their size or type.

The PN Rule requires states with primary enforcement authority to revise their approved primacy programs to adopt regulations no less stringent than the revised EPA regulations. The final regulation gives states considerable discretion, at their option, to work with EPA to tailor public notification programs to fit unique needs, policies, and programs.

**Q10. How is EPA helping public water systems with the PN requirements?**

- A10. EPA and the Association of State Drinking Water Administrators (ASDWA) issued a Public Notification Handbook (EPA 816-R-00-010) in June 2000 to assist water systems in implementing the regulation. A revised Public Notification Handbook (EPA 816-R-07-003) specifically for community and non-transient noncommunity water systems was published in March 2007 along with a handbook for transient noncommunity systems (EPA 816-R-07-004), which was developed to only include provisions specific to transient systems. A second revision to both the CWS and NTNCWS PN Handbook (EPA 816-R-09-013) and the TNCWS PN Handbook (EPA 816-R-09-009) were reviewed by ASDWA and AWWA and are being published concurrently with this document (March 2010). The most recent Handbooks include templates for public notices for many violations and other situations included in EPA drinking water regulations published to date (March 2010), and other aids to help water systems develop their own notices.



## **Section 3**

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# **State Implementation**

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## 3.1 Overview of Implementation

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The PN Rule requires all PWSs to alert consumers to potential health risks from violations of drinking water standards or other situations that can pose public health risks, and to tell consumers how to avoid or minimize such risks. The revised PN Rule, published in the *Federal Register* on May 4, 2000, modified the minimum requirements PWSs must meet regarding the form, manner, frequency, and content of public notices from those listed in the former PN Rule. States with primary enforcement responsibility (primacy) were required to revise their drinking water programs by adopting regulations that were at least as stringent as the revised public notification requirements as soon as possible, but no later than May 6, 2002.

States should note that in several sections the guidance makes suggestions and offers alternatives that go beyond the minimum requirements indicated by reading 40 CFR 142.16. EPA does this to provide states with information and/or suggestions that may be helpful to states' implementation efforts. Such suggestions may be prefaced by "may" or "can" and are considered to be advisory. They are not required elements of states' programs.

## 3.2 Identify Affected Systems and Requirements

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Provisions of the PN Rule apply differently to each type of PWSs. For instance, NTNCWSs and TNCWSs have different delivery method options than CWSs. In addition, NTNCWSs and TNCWSs have different violations or situations that require public notification (e.g., TNCWSs are not required to test for inorganic chemicals).

### 3.2.1 General Provisions

The PN Rule applies to all PWSs with violations of NPDWRs or other situations posing a public health risk. Each owner or operator of a PWS must provide a public notice to all persons served when the system fails to comply with certain drinking water regulations, has been granted a variance or exemption from the regulations, or is facing other situations posing a potential risk to public health.

In general, public notice is required for any of the following violations:

- Exceedances of MCLs or MRDLs.
- Violation of treatment techniques.
- Monitoring and testing procedure violations.
- Failure to comply with the schedule of a variance or exemption.

Other situations (not violations) which require public notice include:

- Occurrence of a waterborne disease outbreak or other waterborne emergency.
- Fecal indicator-positive ground water source sample.
- Exceedance of the nitrate MCL in noncommunity water systems (NCWSs) that have been granted permission by the state to continue to exceed the nitrate MCL of 10 mg/l (although they may not exceed 20 mg/l).
- Exceedance of the fluoride SMCL.

- Availability of unregulated contaminant monitoring results.
- Operation under a variance or exemption.

States may require notice for other violations and situations.

### **3.2.2 Public Notice Tiers 1, 2, and 3**

**[40 CFR 141.202(a)-(b), 141.203(a)-(b), 141.204(a)-(b)]**

The PN Rule classifies violations of drinking water standards and other situations into three tiers based upon the risk of adverse health effects:

- Tier 1 applies to NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation or situation.
- Tier 2 applies to other NPDWR violations and situations with the potential to have serious adverse effects on human health. Notice is required within 30 days of the violation or situation, with the possibility of an extension of up to three months at the discretion of the state.
- Tier 3 applies to all other NPDWR violations and situations not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation or situation.

The tier to which a violation or other situation is assigned determines the form, content, and frequency of the public notice. EPA believes this linkage between the tier and the form, manner, and timing will allow water systems to effectively tailor the public notice to the health risk from each violation.

Table 3-1 below shows the appropriate tiers for NPDWR violations and other situations. A complete list of contaminants and their appropriate tiers can be found in Appendix A to Subpart Q.

**Table 3-1. Violations and Situations Requiring Public Notice**

- Violation of the MCL for total coliform, when **fecal coliform or *E. coli*** are present in the water distribution system, or failure to test for fecal coliform or *E. coli* when any repeat sample tests positive for coliform.
- Violation of the MCL for **nitrate or nitrite**, or when a confirmation sample is not taken within 24 hours of the system's receipt of the first sample showing exceedance of the nitrate or nitrite MCL.
- Exceedance of the **nitrate MCL** (10 mg/l) by noncommunity water systems, where permitted to exceed the MCL (up to 20 mg/l) by the state.
- Violation of the MRDL for **chlorine dioxide** when one or more of the samples taken in the distribution system on the day after exceeding the MRDL at the entrance of the distribution system, or when required samples are not taken in the distribution system.
- Violation of the **turbidity MCL** of 5 NTU, where the state determines after consultation that a Tier 1 notice is required or where consultation does not occur in 24 hours after the system learns of violation.
- Violation of the **treatment technique** requirement resulting from a single exceedance of the maximum allowable **turbidity** limit, where the state determines after consultation that a Tier 1 notice is required or where consultation does not take place in 24 hours after the system learns of violation.
- Occurrence of a **waterborne disease outbreak**, as defined in 40 CFR 141.2, or **other waterborne emergency**.
- Detection of ***E. coli*, enterococci, or coliphage** in a ground water source sample.
- Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, **as determined by the state** either in its regulations or on a case-by-case basis.

\* If the system experiences any of these violations or situations, in addition to issuing public notice, it must initiate consultation with the state as soon as practical but within 24 hours after learning of the violation or situation. Note: Initiate consultation means that at a minimum, the system has taken steps to contact the state. EPA and most states now have voicemail or an emergency hotline, so systems should be able to leave a message. If the system is not able to reach anyone within the 24-hour period, the system must still issue public notice within that timeframe. When consultation does occur, the state or EPA will inform the system of any additional steps they must take as a follow-up to the initial notice.

- All violations of **MCL, MRDL, and (TT)** requirements except where Tier 1 notice is required.
- Violations of **monitoring requirements where the state determines that a Tier 2** public notice is required, taking into account potential health impacts and persistence of the violation.
- Failure to comply with the terms and conditions of any variance or exemption in place.
- For ground water systems providing 4-log treatment for viruses, failure to **maintain required treatment** for more than 4 hours.
- Failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a **fecal indicator-positive source sample** under the Ground Water Rule.
- Failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a **significant deficiency** under the Ground Water Rule.
- Special public notice for repeated failure to conduct **monitoring for *Cryptosporidium*** (40 CFR 141.211).

\*\* If the system exceeds the maximum allowable turbidity level, as identified in Appendix A to Subpart Q, it must consult with the state as soon as practical but no later than 24 hours after learning of the violation. Note: Consult with the state means that the system contacts and has a discussion with the state about the violation. If the system does not have a consultation with the state within the 24-hour period, a Tier 1 public notice requirement is automatically triggered and the system must issue a public notice within the next 24-hour period. In contrast to the term "initiate consultation" for Tier 1 violations or situations, EPA intends that the system actually have a discussion about the violation or situation.

### **Tier 3 Violations and Other Situations Requiring Notice Within 1 Year**

- **Monitoring violations**, except where a Tier 1 notice is required or the state determines that the violation requires a Tier 2 notice.
- **Failure to comply with an established testing procedure**, except where a Tier 1 notice is required or the state determines that the violation requires a Tier 2 notice.
- **Operation under variance** granted under § 1415 or exemption granted under § 1416 of the Safe Drinking Water Act.
- Availability of **unregulated contaminant monitoring results**.
- Exceedance of the secondary maximum contaminant level for **fluoride** (community water systems only).

### **3.2.3 Content of a Public Notice - Ten Required Elements**

#### **[40 CFR 141.205(a)]**

With the exception of some special notices as described in Section 3.2.9., all public notices must include a clear and readily understandable explanation of each violation or situation and must address the following ten elements:

- 1) A description of the violation or situation including contaminant(s) of concern and (as applicable) the contaminant level(s).
- 2) When the violation or situation occurred (i.e., date the sample was collected or was supposed to be collected).
- 3) Any potential adverse health effects from the violation or situation, using standard language for health effects provided in Appendix B to Subpart Q or for monitoring or testing procedure violations provided in 40 CFR 141.205(d)(2). (Refer to Section 3.2.8 of this document).
- 4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water.
- 5) Whether alternate water supplies should be used.
- 6) What actions consumers should take, including when to seek medical help (if known).
- 7) What the system is doing to correct the violation or situation.
- 8) When the system expects to return to compliance or resolve the situation.
- 9) Contact information: name, business address, and phone number of the water system owner, operator, or designee of the PWS that can provide additional information concerning the notice.
- 10) A statement encouraging notice recipients to distribute the notice to other persons served, where applicable, using standard language provided in 40 CFR 141.205(d)(3). (Refer to Section 3.2.8 of this document).

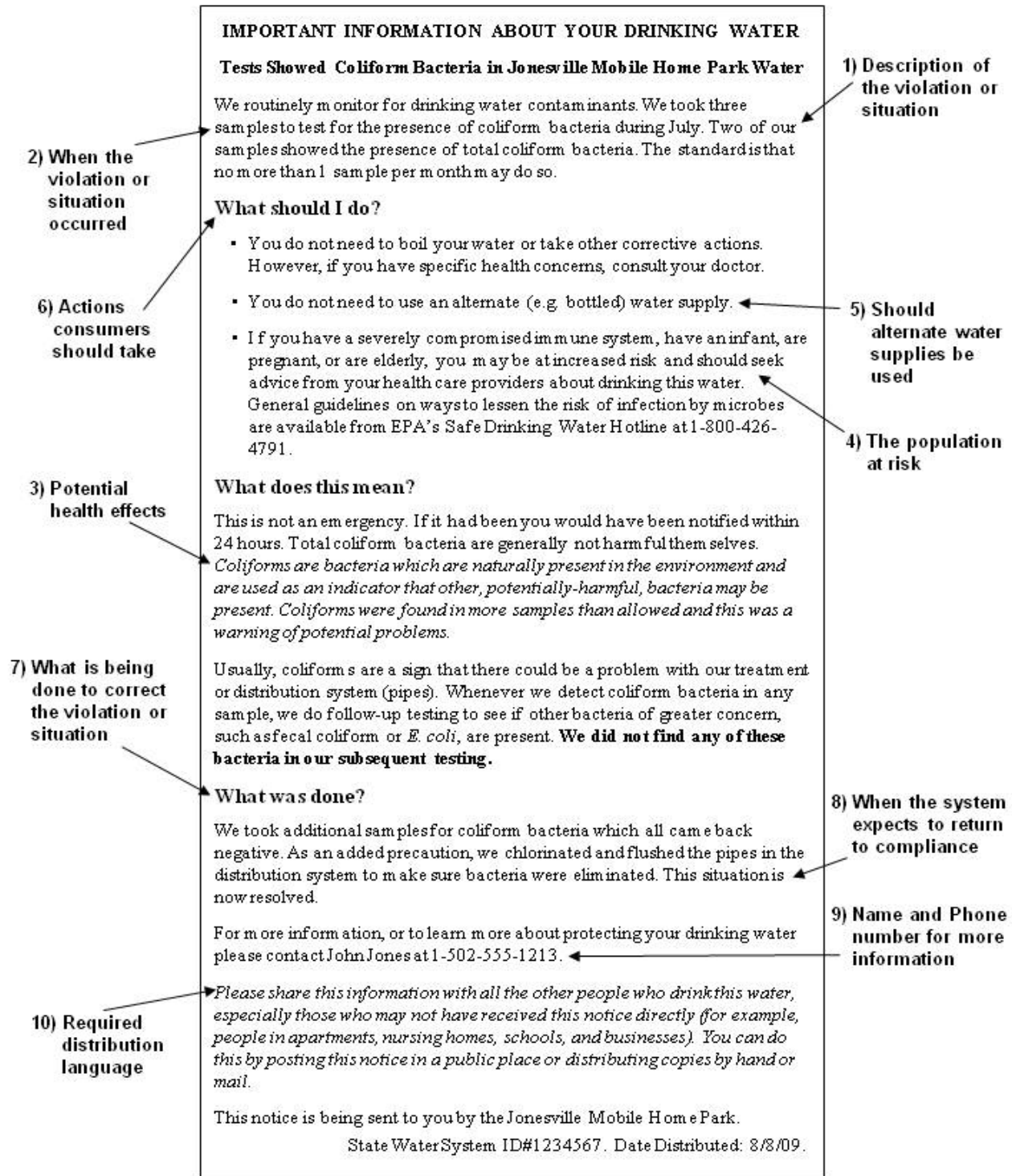
Although required elements may not appear to be applicable to each type of violation, the system must still address each element in the notice. For example, if there is no “action consumers should take,” the notice should not disregard this requirement but simply state this. EPA believes this is especially important for Tier 2 notices, where a violation may have been resolved by the time the notice is issued or

may not be an immediate health risk. Systems may consult with their state or a local health department for the appropriate information for some elements of the notice, such as the actions consumers should take. The local health department also can help identify other system-specific information, such as populations at risk (e.g., children or dialysis patients).

If a system does not know when it will return to compliance, EPA expects the notice to give consumers an idea of how long it will take. For example, it may take a few days to resolve an *E. coli* violation or a few months to install corrosion control. Public notice is required for as long as the violation or situation persists. When the problem is resolved, EPA recommends that a system issue a follow-up notice.

For some situations, such as waterborne emergencies, that may not have mandatory health effects language, systems will have to develop situation-specific descriptions of potential health effects. A PWS may be able to adapt the language from a treatment technique or MCL violation. Figure 3-1 contains an example showing how all the required content elements fit into a notice for a violation.

Figure 3-1. Required Elements of a Public Notice





### **3.2.4 Minimum Delivery Requirements for Public Notice**

#### **[40 CFR 141.202(c), 141.203(c), and 141.204(c)]**

The PN Rule establishes minimum delivery methods for systems to use in distributing public notices for a Tier 1, 2, or 3 violation or situation. Water systems must select at least one delivery method from the regulatory list and take steps reasonably calculated to reach others served by the system.

#### Tier 1

40 CFR 141.202(c) gives systems the flexibility to choose the specific method of delivery to distribute Tier 1 notices. For Tier 1 notification, a PWS must use, at a minimum, at least one of the following delivery methods:

- Appropriate broadcast media.
- Posting of the notice in conspicuous locations.
- Hand delivery.
- Another minimum delivery method specified in writing by the state.

The Rule also establishes a performance standard requiring the system to use delivery methods reasonably calculated to reach all other persons not reached by the primary method within the 24-hour period, including all residential, transient, and non-transient users of the water.

#### Tiers 2 and 3

Delivery requirements for Tier 2 and 3 notices differ depending on whether a system is a CWS or a NCWS. The requirements for delivering Tier 2 notices are specified in 40 CFR 141.203(c). Requirements for Tier 3 notification are specified in 40 CFR 141.204(c). The Rule requires a CWS, at a minimum, to mail or otherwise directly deliver the notice to each customer receiving a bill and to other service connections to which water is delivered, and to use another method reasonably calculated to reach other persons regularly served by the system. NCWSs must, at a minimum, post the notice in conspicuous locations or mail or directly deliver the notice to each customer and service connection (if known), and to use another method reasonably calculated to reach other persons if they would not normally be reached by the posted notice. The state may direct the system in writing to provide a delivery method other than the methods required in 40 CFR 141.203(c) and 40 CFR 141.204(c).

Table 3-2 summarizes the minimum delivery requirements prescribed for Tier 1, 2, and 3 notices.

If a public notice is posted, it must remain in place for as long as the violation or situation lasts, but in no case less than seven days, even if the violation or situation is resolved [40 CFR 141.203(b) and 40 CFR 141.204(b)]. Generally, a violation or situation is considered to be resolved when the system has returned to compliance as defined by the regulation in question; however systems may wish to contact their state to determine whether a violation or situation is considered resolved.

**Table 3-2. Requirements for Issuing Public Notice**

Tier	Deadline for Initial Notice	Repeated Notices*	Delivery Methods to Use
1	24 hours**	As dictated by the state	1) Broadcast media (radio or television), hand delivery, or posting. 2) In consultation with the state, additional methods may be required.
2	30 days***	Every 3 months	CWS: 1) Mail or hand delivery. 2) Another method as needed to reach consumers not likely to receive a notice from methods noted in item #1.
			NCWS: 1) Posting, hand delivery, or mail. 2) Another method as needed to reach consumers not likely to receive a notice from methods noted in item #1.
3	1 year****	Annually	CWS: 1) Mail or hand delivery (public notice delivery may be provided by CCR if one year requirement is met). 2) Another method as needed to reach consumers not likely to receive a notice from methods noted in item #1.
			NCWS: 1) Posting, hand delivery, or mail. 2) Another method as needed to reach consumers not likely to receive a notice from methods noted in item #1.
<p>* Repeated notices are required if the violation or situation persists, unless otherwise directed by the state.</p> <p>** For Tier 1, systems must also initiate consultation with the state within 24 hours.</p> <p>*** Systems with turbidity MCL violations based on the average of samples over two days or with turbidity single exceedance treatment technique violations must consult with the state within 24 hours after learning of the violation.</p> <p>**** EPA recommends consolidating all Tier 3 violations and situations occurring within a given year into an annual notice (refer to Section 3.2.4.1 for more information).</p>			

### **3.2.4.1 Use of Annual Notice to Meet Tier 3 PN Requirements**

#### **[40 CFR 141.204(b)(2), 141.204(d)]**

The PN Rule allows systems the option of providing an annual notice summarizing all Tier 3 violations occurring during the year instead of providing individual Tier 3 public notices [40 CFR 141.204(b)(2)]. Given that the majority of violations or situations require a Tier 3 public notice, EPA believes the advantages of using an annual notice for Tier 3 violations or situations are reduced cost and more effective communication with consumers.

A community water system (CWS) has the option to use their consumer confidence report (CCR) as a vehicle for Tier 3 notices (initial and repeat notices). States and systems should be aware that the timing and content requirements of the PN Rule differ from those of the CCR Rule and any Tier 3 notices inserted in the CCR must meet the PN requirements. With regard to timing, for example, a CCR published on July 1, 2011 must include violations or situations that occurred between January 1, 2010 and December 31, 2010. However, a CCR published on this date cannot be used to provide public notification for Tier 3 violations or situations that occurred between January and June 2010 since the CCR would reach consumers more than a year after they occurred. To minimize the timing conflict, systems could publish the CCR early (i.e., as soon after the end of the calendar year as possible) or include a separate public notice for the violations that occurred from January through June of the *current* year in the same envelope as the CCR covering the previous calendar year's violations.

As specified in 40 CFR 141.204(d), if a CWS chooses to use the CCR for public notification, the CWS must:

- 1) Provide the CCR to all persons served no later than 12 months after the system learns of the violation as required in 40 CFR 141.204(b).
- 2) Meet the PN requirements for content of Tier 3 public notices under 40 CFR 141.205.
- 3) Distribute the CCR following the PN delivery requirements in 40 CFR 141.204(c). Small CWSs that have a mailing waiver for CCR would not satisfy the PN delivery requirements. In addition, the CCR must be provided to persons served that are not necessarily only the billing customers who would receive the CCR.

### **3.2.5 Who Must be Notified**

#### **[40 CFR 141.201(c), 141.206, and 141.210]**

Each PWS must provide public notice to persons served by the water system [40 CFR 141.201(c)]. EPA interprets the obligation of a system to reach persons served to extend beyond bill-paying customers and service connections to all consumers of the system's drinking water. This means that a PWS must take steps reasonably calculated to inform people who drink the water if they would not be reached by the primary delivery methods. For example, if a CWS mails a notice to its billing customers only, people who do not receive water bills, such as tenants or people who work in the area served by the system but live elsewhere would not receive a notice. Publishing the notice in the newspaper and/or providing copies of the notice to landlords to distribute to their tenants would help reach those people. In addition to posting the notice, a NCWS could deliver multiple copies of the notice to central locations (e.g., community centers).

The PN Rule also requires inclusion of standard language in the notice to encourage distribution of the notice, where applicable. This language is included in Section 3.2.8 and is intended to increase public

awareness of the situation. However, use of this language does not relieve systems of their obligation to notify persons served.

### **3.2.5.1 Wholesale and Consecutive System Responsibilities**

#### **[40 CFR 141.201(c)(1)]**

Public water systems that sell or otherwise provide drinking water to other public water systems are required to give public notice of a violation or situation to the owner or operator of any systems to whom they sell water. (Selling systems are known as “wholesale” systems; purchasing systems are referred to as “consecutive” systems.) The wholesale system is not required under the PN Rule to distribute notice to persons served by the consecutive systems. It is the responsibility of the consecutive system to provide public notice to the people it serves. For example, if a PWS supplies water to six other systems, the PN Rule requires the wholesale system to provide public notice to the owner or operator of each of the other six water systems. Each of the six consecutive systems must, in turn, provide notice to the persons they serve within the appropriate deadline.

The “clock” for public notification (i.e., the point in time from which the deadline for notification is determined) begins for each of the consecutive systems when they are notified of the violation or situation. In a situation where a system purchases water, then sells some of this water to another system, this could have a “multiplying” effect. In a Tier 1 situation, for example, the notification deadline for the third system could be up to three days after the violation was originally identified. In such circumstances, it may be easier and more appropriate for the wholesale system to notify all consumers of consecutive systems by broadcasting the notice over television or radio, or for the systems to issue joint notices. In general, wholesale systems should send copies of the notice to their consecutive systems prior to notifying the media, if time permits. Although the legal obligations are clear under the Rule, EPA recommends that in such cases the wholesale and consecutive systems agree on, and specify in their contracts, the most effective approach for distributing public notices.

### **3.2.5.2 Limited Distribution of Notices**

#### **[40 CFR 141.201(c)(2)]**

In cases where a system has a violation in a portion of the distribution system that is physically or hydraulically isolated from the rest of the distribution system, the PN Rule provides states with the flexibility to allow a system to only notify persons served by that portion of the system that is out of compliance. The state must provide written permission to the system for limiting distribution of the notice.

This provision can also apply to wholesale systems and consecutive systems. If a consecutive connection is in an area of the distribution system that is isolated from other parts of the distribution system, and that portion of the distribution serving the consecutive system is in compliance, the state can grant the wholesale system permission, in writing, to only notify those areas of the distribution system that are not in compliance. Thus the consecutive system would not be notified of the violation.

### **3.2.5.3 Copy of Notice to State**

#### **[40 CFR 141.201(c)(3)]**

A copy of the notice and certification that all requirements have been met must be sent to the state, in accordance with the requirements of 40 CFR 141.31(d). Refer to Section 3.2.11 of this document for more information.

#### **3.2.5.4 Notice to New Billing Units**

**[40 CFR 141.206]**

The Rule requires community water systems to give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins. Non-community water systems must continuously post the public notice in conspicuous locations to inform new consumers of any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring public notice.

#### **3.2.5.5 Notice by the State on Behalf of the System**

**[40 CFR 141.210]**

The state at its discretion, may give public notice on behalf of the PWS if all PN requirements are met. The owner or operator of the PWS remains responsible for ensuring that the PN requirements are met.

### **3.2.6 Variances and Exemptions**

**[40 CFR 141.204(b)(1) and 141.205(b)]**

Systems operating under a variance or exemption must provide Tier 3 notice to their consumers within one year of obtaining the variance or exemption, and repeat the notice annually for as long as the variance or exemption exists. In addition, if the notice is posted, it must remain in place for as long as the variance or exemption exists [40 CFR 141.204(b)(1)]. The notice must include the following [40 CFR 141.205(b)]:

- An explanation of the reasons for the variance or exemption.
- The date on which the variance or exemption was issued.
- Brief report on the steps the system is taking to comply with the terms of the variance or exemption.
- Notice of any opportunity for public input of the variance and exemption.

A system that violates the conditions of a variance or exemption must issue a Tier 2 public notice containing the ten elements specified in 40 CFR 141.205(a).

### **3.2.7 Multilingual Requirements**

**[40 CFR 141.205(c)(2)]**

The PN Rule establishes minimum multilingual requirements for PWSs to meet. If a large proportion of the population a system serves does not speak English, the system must provide at least partially multilingual notices. The notice must, at a minimum, contain information in the appropriate language(s) regarding the importance of the notice, or it must provide a phone number or address where a translated notice or information or assistance in the appropriate language is available. The state may establish criteria for what constitutes a large proportion of the population served. The PN Rule also requires a PWS to comply with the multilingual requirements, where appropriate, even in those cases where the state does not provide further direction.

To determine the languages spoken in a community, systems should rely on knowledge of their consumer base or contacts with community representatives. Another possible source of information on the languages spoken in a locale is the US Census Bureau's Web site, <http://factfinder.census.gov>, which

contains information about local communities. The Census database includes answers to questions about what languages besides English are spoken at home and the level of English proficiency.

EPA expects systems to be more proactive in deciding whether to translate PNs than they would for CCRs because public notices are about violations of drinking water standards or other situations that pose a health risk, whereas CCRs are more educational in nature. Systems may wish to provide notices in multiple languages if non-English speaking populations are in the service area, whether or not there are a large proportion of such people. Although systems are not required to provide full translations of notices, this is strongly recommended for Tier 1 notices and for other violations that pose a serious health risk. The revised CWS and NTNCWS PN Handbook (EPA 816-R-09-013) and the revised TNCWS PN Handbook (EPA 816-R-09-009) include Spanish translations for two Tier 1 notices: violation of the nitrate MCL and violation of the total coliform MCL where fecal coliforms or *E. coli* are present. These are posted on EPA's Web site at: <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

### **3.2.8 Standard Language for Public Notices**

#### **[40 CFR 141.205(d)]**

The PN Rule contains mandatory health effects language for MCL, MRDL, and TT violations, standard language for monitoring violations, and standard language for distribution of the notice to all persons served.

- Appendix B to Subpart Q specifies health effects language for MCL and MRDL violations, TT violations, and violations of the conditions of a variance or exemption. A PWS must include in each public notice the health effects language specified in Appendix B to Subpart Q [40 CFR 141.205(d)(1)]. If there is no mandatory language provided for a violation or situation, systems should describe potential health effects using their own language.
- The following language must be included for all monitoring violations (including testing procedure violations) [40 CFR 141.205(d)(2)]:

*We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [compliance period], we ['did not monitor or test' or 'did not complete all monitoring or testing'] for [contaminant(s)], and therefore cannot be sure of the quality of your drinking water during that time.*

- The following language to encourage distribution of the notice to all persons served must be included in all notices, where appropriate [40 CFR 141.205(d)(3)]. EPA believes distribution of the notice to all persons served increases public awareness of the situation. Use of this language does not relieve systems of their obligation to notify persons served:

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

There are situations where this may not apply. For example, this language would probably not be necessary on a posted notice, since posting makes the notice available to everyone who passes by. It would also not be needed for a notice provided by broadcast and print media.

### 3.2.9 Special Notices

#### [40 CFR 141.207, 141.208, 141.209, and 141.211]

The PN Rule specifies violations and situations that have special conditions of form, manner, and/or content. They are referred to as special notices. Situations that require special notice include the availability of unregulated contaminant monitoring data, fluoride SMCL exceedances, and NCWS nitrate exceedances above the MCL allowed by the state. Violations that require special notice include repeated failure to conduct monitoring of the source water for *Cryptosporidium*, and failure to determine bin classification or mean *Cryptosporidium* level.

- **Unregulated contaminant monitoring [40 CFR 141.207]:** If a PWS is required to monitor for unregulated contaminants under the Unregulated Contaminant Monitoring Rule, it must issue a public notice stating that the results of the monitoring are available and give a phone number to call for those results. The ten required elements of a public notice [40 CFR 141.205(a)] do not need to be included, but the system must follow the Tier 3 schedule to issue a public notice no later than 12 months after the monitoring results are known. Systems also have the option to include this information in an annual notice for Tier 3 situations and violations.
- **Exceedance of the SMCL for Fluoride [40 CFR 141.208]:** CWSs that exceed the SMCL of 2 mg/l for fluoride but do not exceed the MCL of 4 mg/l must provide public notice containing the special fluoride language shown below (in italics). Systems do not need to include the ten required elements of a public notice [40 CFR 141.205(a)], as these are addressed in the mandatory special language.

*This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system [name] has a fluoride concentration of [insert value] mg/l.*

*Dental fluorosis, in its moderate or severe forms, may result in a brown staining and or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.*

*Drinking water containing more than 4 mg/l of fluoride (the US Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we are required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.*

*For more information, please call [name of water system contact] of [name of community water system] at [phone number]. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.*

Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. A copy of the notice must also be sent to all new billing units and new customers at the time service begins as well as to the state public health officer or state health department. The water system must repeat the notice annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days (even if the exceedance is eliminated). On a case-by-case basis, the state may require an initial notice sooner than 12 months and repeat notices more frequently than annually. The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice specified in 40 CFR 141.204(c), (d)(1) and (d)(3).

- **Nitrate exceedances above the MCL by NCWSs [40 CFR 141.209]:** The owner or operator of a NCWS granted permission by the state under 40 CFR 141.11(d) to exceed the nitrate MCL must provide notice to persons served according to the requirements for a Tier 1 notice under 40 CFR 141.202(a) and (b). The NCWS must provide continuous posting of the fact that nitrate levels exceed 10 mg/l according to the requirements for Tier 1 notice delivery under 40 CFR 141.202(c) and the content requirements under 40 CFR 141.205 (the 10 required elements).
- **Repeated failure to conduct monitoring of the source water for *Cryptosporidium* for surface water systems [40 CFR 141.211]:** Surface water systems that incur a violation for failing to conduct required *Cryptosporidium* monitoring of their source water for any three months are required to issue a Tier 2 special notice within 30 days. The notice must meet all the Tier 2 PN requirements. The notice must also include the following mandatory language as well as a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation:

*We are required to monitor the source of your drinking water for Cryptosporidium. Results of the monitoring are to be used to determine whether (treatment plant name) is sufficient to adequately treat the water for Cryptosporidium. We are required to complete this monitoring and make this determination by (required bin determination date). We “did not monitor or test” or “did not complete all monitoring or testing” on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).*

Monitoring the source water for *Cryptosporidium* is a requirement under LT2ESWTR. The compliance date for this requirement depends on the schedule the system must follow under LT2ESWTR.

(Note: systems that fail to collect one or two months of the scheduled *Cryptosporidium* samples are required to issue Tier 3 notification. In this case, special notice language does not apply.)

- **Failure to determine bin classification or mean *Cryptosporidium* level [40 CFR 141.211]:** Surface water systems that fail to determine their bin classification or mean *Cryptosporidium* level after completing source water monitoring required under LT2ESWTR are required to issue Tier 2 special notice within 30 days. The notice must meet all the Tier 2 PN requirements. The notice must also include the following mandatory language as well as a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation:



*We are required to monitor the source of your drinking water for Cryptosporidium in order to determine by (date) whether water treatment at the (treatment plant name) is sufficient to adequately remove Cryptosporidium from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).*

The compliance date for this requirement depends on the schedule the system must follow under LT2ESWTR.

### **3.2.10 Formatting Requirements for Public Notices**

#### **[40 CFR 141.205(c)(1)]**

All public notices must meet certain formatting standards. These requirements help highlight notices in a newspaper and help ensure that consumers can easily understand the notice.

- ✓ Notices must be displayed in a conspicuous way (where printed or posted).
- ✓ They may not contain overly technical language or very small print.
- ✓ They may not be formatted in a way that defeats the purpose of the notice.
- ✓ They may not contain language which nullifies the purpose of the notice.

### **3.2.11 Certification**

#### **[40 CFR 141.31(d)]**

The PN Rule requires a PWS, within 10 days of completing the public notification requirements for the initial public notice and any repeat notices, to submit a certification to the state that it has fully complied with the PN regulations along with a copy of each type of notice. A PWS must include with the certification a copy of each type of notice distributed, published, posted, or made available to the persons served by the system and to the media (e.g., press release to TV/radio, mail notices). In the revised CWS and NTNCWS PN Handbook (EPA 816-R-09-013) and the revised TNCWS PN Handbook (EPA 816-R-09-009), EPA include a sample certification “box” with appropriate language, suitable for checking off required activities as a PWS completes them. The sample is also provided below in Figure 3-2. The box is not mandatory (only a statement is); however, it can be a useful tool for systems to track and note required activities. States may develop their own certification forms specifying content and format.

PWS Name:     [give system name]    

PWS ID #:     [provide PWS number]    

For Violation:     [describe violation or situation]    

Occurring on:     [insert date]    .

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, and format requirements and deadlines in [regulatory citation].

☐ Consultation with primacy agency (if required) on     [insert date]    .

☐ Notice distributed by     [insert method]     on     [insert date]    .

☐ Notice distributed by     [insert method]     on     [insert date]    .

☐ Content - required elements.

\_\_\_\_\_  
Signature of owner or operator

\_\_\_\_\_  
Date

**[40 CFR 141.33(e)]**

### 3.3 Communicate PN Rule Requirements to Systems

### 3.3.1 Requirements and Target Notification Time Frames

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*PN Rule Implementation Guidance*

### **3.3.2 Methods of Communication**

#### ***Written Notice***

Providing written notice of rule requirements to PWSs serves two purposes: (1) the recipient system obtains a formal notice of upcoming regulatory requirements and a timeline for compliance, and (2) the state has a hard-copy document that it may file and use in subsequent compliance tracking efforts.

Written notification can be in the form of a letter from the state to affected systems. The letter should include a summary of rule requirements and timeframes and direct the reader to an appropriate contact if questions arise.

States should consider including fact sheets or other summary materials with the letter. Appendix C of this document includes this type of additional information. The documents in Appendix C are intended to be distributed to water systems through mailings, training sessions, and other educational forums. These publications (also available at <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>) provide overviews of the PN Rule to help systems understand the provisions of the Rule and determine which provisions apply. The publications also describe the benefits of the Rule.

Although valuable, systems also need to be reminded that these resources do not substitute for official rule language, and therefore, states should include in the letter the Web site address where their regulatory language can be accessed.

#### ***Training Sessions***

While written communications will provide necessary information to systems, training sessions can help deepen a systems understanding of Rule requirements. Slide presentations can be used by state staff and other training providers to present the background of the Rule, its benefits, and its requirements.

The EPA's Drinking Water Academy developed a training session on the PN Rule (available in Microsoft PowerPoint format). Copies of the presentation may be used to train other state personnel, technical assistance providers, water system personnel, and the public. EPA's Drinking Water Academy slides are available electronically on the EPA Web site at <http://www.epa.gov/safewater/publicnotification/compliancehelp.html>.

#### ***Guidance Documents***

Guidance documents developed for the PN Rule are also useful for explaining rule requirements and specific aspects of rule implementation to system operators, including monitoring and compliance determinations. The guidance documents can be used as stand-alone references or as supporting materials in PN Rule training events. See Section 2 for more information on these references.

## **3.4 Data Management Systems**

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Although state data management systems vary to suit state-specific requirements and needs, EPA recommends that all states ensure that their data management systems are capable of efficiently tracking affected PWSs, compliance status, and other information needed to implement the PN Rule.

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## **Section 4**

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# **State Primacy Revision Application**

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40 CFR Part 142 sets out requirements for states to obtain and/or retain primary enforcement responsibility (primacy) for the Public Water System Supervision (PWSS) program as authorized by Section 1413 of the SDWA. The 1996 SDWA Amendments updated the process for states to obtain and/or retain primacy. On April 28, 1998, EPA promulgated the Primacy Rule to reflect these statutory changes (63 *FR* 23361).

Note: Although the dates for obtaining primacy have passed, Sections 4.1 through 4.3.5 and 4.37 are included as a historical reference. For new PN requirements from Rules promulgated after 2005, refer to Sections 4.3.6 and 4.4.

## 4.1 State Primacy Program Revision

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Pursuant to 40 CFR 142.12, complete and final requests for approval of program revisions to adopt new or revised EPA regulations must be submitted to the EPA Administrator no later than 2 years after promulgation of new or revised federal regulations. Until EPA approves those applications, EPA regions have responsibility for directly implementing the new or revised regulations although the state and EPA can agree to implement a rule together during this period.

States that have primacy for all existing National Primary Drinking Water Regulations (NPDWRs) are considered to have interim primacy for any new or revised regulation. If a state is eligible for interim primacy, it will have full implementation and enforcement authority. Interim primacy for the PN Rule would begin on the date the state submits its final and complete primacy revision application or the effective date of the new state regulation (whichever is later), and ends when EPA makes a final determination (see Table 4-1).

A state may be granted an extension of up to 2 years to submit its application package. During any extension period, an extension agreement outlining the state's and EPA's responsibilities is required.

**Table 4-1. State Rule Implementation and Revision Timetable for the PN Rule**

<b>EPA/State Action</b>	<b>Time Frame</b>
PN Rule promulgated	May 4, 2000
Rule compliance date for Direct Implementation Programs	October 31, 2000
Rule compliance date for all other programs	May 6, 2002
State and Region establish a process and agree upon a schedule for application review and approval (optional)	July 5, 2000
State, at its option, submits draft program revision package to Region including: Preliminary Approval Request, Draft State Regulations and/or Statutes, Regulation Crosswalk	February 4, 2002
Regional (and Headquarters if necessary) review of draft	Completed within 90 days of state submittal of draft (suggested)

EPA/State Action	Time Frame
State submits final program revision package to Region including: <ul style="list-style-type: none"> <li>● Adopted State Regulations</li> <li>● Regulation Crosswalk</li> <li>● 40 CFR 142.10 Primacy Update Checklist</li> <li>● 40 CFR 142.14 and 142.15 Reporting and Recordkeeping</li> <li>● 40 CFR 142.16 Special Primacy Requirements</li> <li>● Attorney General's Enforceability Certification</li> </ul>	May 6, 2002 <sup>1</sup>
States with approved extensions submit complete and final program revision package	May 4, 2004 <sup>2</sup>
EPA final review and determination: <ul style="list-style-type: none"> <li>● Regional review [program and Office of Regional Counsel (ORC)]</li> <li>● Headquarters concurrence and waivers [Office of Ground Water and Drinking Water (OGWDW) and Office of Enforcement and Compliance Assistance (OECA)]</li> <li>● Public notice</li> <li>● Opportunity for hearing</li> <li>● EPA's determination</li> </ul>	Completed within 90 days of state submittal of final program revision package 45 days Region 45 days Headquarters <sup>3</sup>

1. EPA suggests submitting an application by February 4, 2002, to ensure timely approval. EPA regulations allow states until May 6, 2002, for this submittal. An extension of up to 2 years may be requested by the state.

2. EPA suggests submitting an application by February 4, 2004, for states with approved extensions to ensure timely approval.

3. At least one state per Region.

#### 4.1.1 The Revision Process

EPA recommends a two-step process for approval of state program revisions. The steps consist of submission of a draft request (optional) and submission of a complete and final request for program approval. Figure 4-1 diagrams these processes and their timing.

**Draft Request**—EPA strongly encourages the submission of draft regulations and primacy revision requests. The request should contain drafts of all required primacy application materials (with the exception of a draft Attorney General's Statement). A draft request should be submitted as soon as practicable; EPA recommends submitting it within 6 months of rule promulgation. EPA will make a tentative determination as to whether the state program meets the applicable requirements. EPA intends to make a tentative determination within 90 days.

**Complete and Final Request**—This submission must be in accordance with 40 CFR 142.12(c)(1) and (2) and include the Attorney General's statement. The state should also include its response to any comments or program deficiencies identified in the tentative determination (if applicable). Submission of only a final request may make it more difficult for states to address any necessary changes within the allowable time for state rule adoption.

EPA recommends that states submit their complete and final revision package within 21 months of rule promulgation (or by February 5, 2002, for the PN Rule). This will ensure that states will have interim primacy as soon as possible and will prevent backlogs of revision applications to adopt future federal requirements.

The state and region should agree to a plan and timetable for submitting the state primacy revision application as soon as possible after rule promulgation—ideally within 2 months of promulgation.

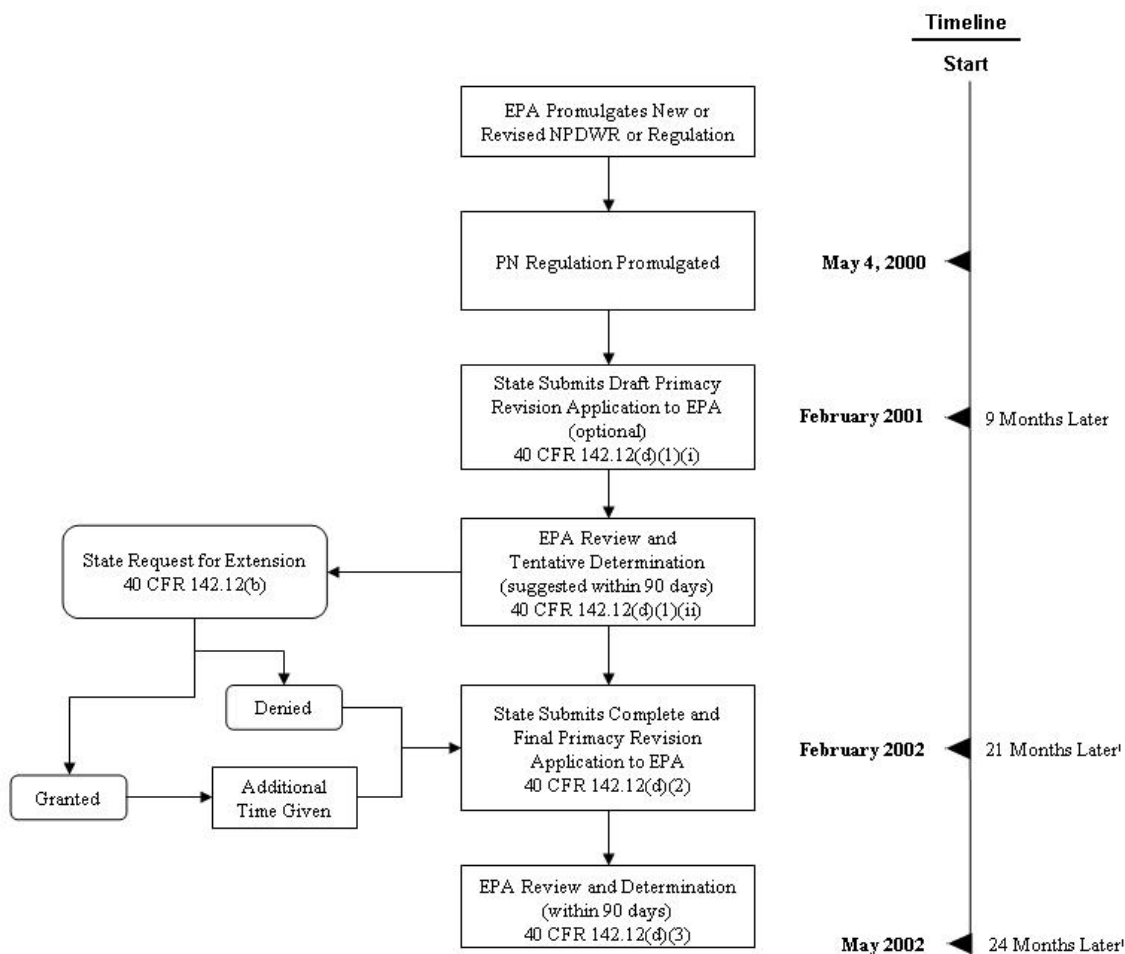


### 4.1.2 The Final Review Process

Once a state application is complete and final, EPA has a regulatory (and statutory) deadline of 90 days to review, and approve or disapprove the revised program. OGWDW will conduct a detailed concurrent review of the first state package from each region. The regional office should submit its comments with the state's package within 45 days for review by Headquarters (HQ). When the region has identified all significant issues, OGWDW waives concurrence on all other state programs in that region, although EPA HQ retains the option to review additional state programs as appropriate. The Office of General Counsel (OGC) has delegated its review and approval to the ORC.

In order to meet the 90-day deadline for packages undergoing review by HQ, the review period is equally split by giving the regions and HQ 45 days each to conduct their respective reviews. For the first package in each region, regions should forward copies of the primacy revision applications and their evaluations to the Drinking Water Protection Division Director in OGWDW no later than 45 days after state submittal. The Drinking Water Protection Division Director takes the lead on the HQ review process.

**Figure 4-1. Recommended Review Process for State Request for Approval of Program Revisions**



## **4.2 State Primacy Program Revision Extensions**

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### **4.2.1 The Extension Process**

Under 40 CFR 142.12(b), a state may request that the 2 year deadline for submitting the complete and final program revision package be extended for up to 2 additional years. The extension request must be submitted to EPA within 2 years of the date that EPA published the regulation. The Regional Administrator has been delegated authority to approve extension applications. Concurrence by HQ on extensions is not required.

Therefore, the state must either adopt regulations pertaining to the PN Rule and submit a complete and final primacy revision application by May 6, 2002, or request an extension of up to 2 years by that date.

### **4.2.2 Extension Request Criteria**

For an extension to be granted under 40 CFR 142.12(b), the state must demonstrate that it is requesting the extension because it cannot meet the original deadline for reasons beyond its control and despite a good faith effort to do so. A critical part of the extension application is the state's proposed schedule for submission of its complete and final request for approval of a revised primacy program. The application must also demonstrate at least one of the following:

- (i) That the state currently lacks the legislative or regulatory authority to enforce the new or revised requirements;
- (ii) That the state currently lacks the program capability adequate to implement the new or revised requirements; or,
- (iii) That the state is requesting the extension to group two or more program revisions in a single legislative or regulatory action.

In addition, the state must be implementing the EPA requirements to be adopted in its program revision within the scope of its current authority and capabilities.

### **4.2.3 Conditions of the Extension**

Until the State Primacy Revision Application has been submitted, the state and EPA regional office will share responsibility for implementing the primary program elements as indicated in the extension agreement. The state and the EPA regional office should discuss these elements and address terms of responsibility in the agreement. PWSs should be notified of a contact person at the EPA Region if they want to ask questions or obtain information about the PN Rule before the state has primacy.

These conditions will be determined during the extension approval process and are decided on a case-by-case basis. The conditions must be included in an extension agreement between the state and the EPA regional office.

Conditions of an extension agreement may include:

- Informing PWSs of the new EPA (and upcoming state) requirements and the fact that the region will be overseeing implementation of the requirements until it approves the state program revisions or until the state submits a complete and final revision package if the state qualifies for interim primacy.
- Collecting, storing, and managing laboratory results, public notices, and other compliance and operation data required by the EPA regulations.
- Assisting the region in the development of the technical aspects of enforcement actions and conducting informal follow-up on violations (e.g., telephone calls, letters).
- Providing technical assistance to PWSs.
- For states whose request for an extension is based on a current lack of program capability adequate to implement the new requirements, taking steps agreed to by the region and the state to remedy the deficiency during the extension period.
- Providing the region with all the information required under 40 CFR 142.15 for state reporting.

Example 4-1 provides a checklist the region can use to review state extensions or to create an extension agreement.

Until states have primacy, EPA is the primary enforcement authority; however, states historically have played a role in implementation for various reasons—most important because states have local knowledge, expertise, and established relationships with their systems.

The state and EPA should be viewed as partners in this effort, working towards two very specific goals. The first goal is to achieve a high level of compliance with the regulation. The second goal is to facilitate successful implementation of the regulation during the transition period between when EPA has primacy and when the state has primacy, including interim primacy, for the Rule. In order to accomplish these goals and to ensure proper health protection, education, training, and technical assistance will need to be provided to water suppliers explaining their responsibilities under the PN Rule. Water suppliers are also encouraged to refer to the PN Rule guidance materials, reference guide, and fact sheets listed in Section 2 and included in Appendix C.

### Example 4-1. Example Extension Request Checklist

<u>{Date}</u>	
<u>{Regional Administrator}</u>	
Regional Administrator US EPA Region <u>{Region}</u> <u>{Street Address}</u>  <u>{City, State, Zip}</u>	
RE: Request/approval for an Extension Agreement	
Dear <u>{Regional Administrator}</u> :	
<p>The State of <u>{State}</u> is requesting an extension to the date that final primacy revisions are due to EPA for the Public Notification (PN) Rule until <u>insert date - no later than August 21, 2002</u>, as allowed by 40 CFR 142.12, and would appreciate your approval. Staff of the <u>{State Department/Agency}</u> have conferred with your staff and have agreed to the requirements listed below for this extension. This extension is being requested because the State of <u>{State}</u>:</p>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Is planning to group two or more program revisions into a single legislative or regulatory action. Currently lacks the legislative or regulatory authority to enforce the new or revised requirements. Currently lacks adequate program capability to implement the new or revised requirements.
<p><u>{State Department/Agency}</u> will be working with EPA to implement the PN Rule within the scope of its current authority and capability, as outlined in the six areas identified in 40 CFR 142.12(b)(3)(i-vi):</p>	
i) Informing public water systems (PWSs) of the new EPA (and upcoming state) requirements and the fact that EPA will be overseeing implementation of the requirements until EPA approves the state revision.	
State _____ _____ _____ _____	EPA _____ Provide copies of regulation and guidance to other state agencies, PWSs, technical assistance providers, associations, or other interested parties. Educate and coordinate with state staff, PWSs, the public, and other water associations about the requirements of this regulation. Notify affected systems of their requirements under the PN Rule. Other:
ii) Collecting, storing, and managing laboratory results, public notices, and other compliance and operation data required by the EPA regulations.	
State _____ _____ _____ _____	EPA _____ Devise a tracking system for PWS reporting pursuant to the PN Rule. Keep PWSs informed of reporting requirements during development and implementation. Report PN Rule violation and enforcement information to SDWIS as required. Other:
iii) Assisting EPA in the development of the technical aspects of the enforcement actions and conducting informal follow-up on violations (telephone calls, letters, etc.).	
State _____	EPA _____ Issue notices of violation (NOVs) for treatment technique and monitoring/ reporting violations of the PN Rule.

_____	_____	Provide immediate technical assistance to PWSs with treatment technique, MCL and/or monitoring/reporting violations to try to bring them into compliance.
_____	_____	Refer all violations to EPA for enforcement if they have not been resolved within 60 days of the incident that triggered the violation. Provide information as requested to conduct and complete any enforcement action referred to EPA.
_____	_____	Other:

iv) Providing technical assistance to PWSs.

State	EPA	
_____	_____	Conduct training within the state for PWSs on PN Rule requirements.
_____	_____	Provide technical assistance through written and/or verbal correspondence with PWSs.
_____	_____	Provide on-site technical assistance to PWSs as requested and needed to ensure compliance with this regulation.
_____	_____	Coordinate with other technical assistance providers and organizations to provide accurate information and aid in a timely manner.
_____	_____	Other:

v) Providing EPA with all information prescribed by the State Reporting Requirements in 40 CFR 142.15.

State	EPA	
_____	_____	Report any violations incurred by PWSs for this regulation each quarter.
_____	_____	Report any enforcement actions taken against PWSs for this regulation each quarter.
_____	_____	Report any variances or exemptions granted for PWSs for this regulation each quarter.
_____	_____	Other:

vi) For states whose request for an extension is based on a current lack of program capability to implement the new or revised requirements, taking the following steps to remedy the capability deficiency.

State	EPA	
_____	_____	Acquire additional resources to implement these regulations (list of specific steps being taken attached as <u>{List A}</u> ).
_____	_____	Provide quarterly updates describing the status of acquiring additional resources.
_____	_____	Other:

I affirm that the {State Department/Agency} will implement provisions of the PN Rule as outlined above.

\_\_\_\_\_

{Agency Director or Secretary}	Date
--------------------------------	------

\_\_\_\_\_

{Name of State Agency}

I have consulted with my staff and approve your extension for the aforementioned regulation. I affirm that EPA Region {Region} will implement provisions of the PN Rule as outlined above.

\_\_\_\_\_

Regional Administrator	Date
------------------------	------

EPA Region {Region}

This Extension Agreement will take effect upon the date of the last signature.

## 4.3 State Primacy Package

The Primacy Revision Application package should consist of the following sections:

- ☐ State Primacy Revision Checklist
- ☐ Relevant Text of the State's Regulations
- ☐ Primacy Revision Crosswalk
- ☐ State Reporting and Recordkeeping Checklist
- ☐ Special Primacy Requirements
- ☐ Attorney General's Statement of Enforceability

### 4.3.1 The State Primacy Revision Checklist [40 CFR 142.12(c)(1)]

This section provides an example of the checklist of general primacy requirements, as shown in Table 4-2, that should be completed and submitted with the state's primacy package. In completing this checklist, the state must identify the program elements that it has revised in response to new federal requirements. **If an element has been revised, the state should indicate a "Yes" answer in the "Revision to State Program" column and should submit appropriate documentation.** For elements that did not require revision, the state need only list the state regulatory citation and date of adoption in the "Revision to State Program" column. During the application review process, EPA will insert findings and comments in the final column.

The 1996 SDWA Amendments included new provisions for the definition of a PWS and administrative penalty authority. States must adopt provisions at least as stringent as these SDWA provisions, codified at 40 CFR 142.2 and 40 CFR 142.10. Failure to revise these elements can affect primacy for the PN Rule.

States must have primacy or interim primacy for all existing regulations before they can receive interim primacy for the PN Rule. States may bundle the primacy revision packages for multiple rules. If states choose to bundle requirements, the Attorney General's Statement should reference all of the rules included.

**Table 4-2. State Primacy Revision Checklist**

Required Program Elements		Revision to State Program	EPA Findings/Comments
§142.10	Primary Enforcement – Definition of Public Water System*		
§142.10(a)	Regulations No Less Stringent		
§142.10(b)(1)	Maintain Inventory		
§142.10(b)(6)(i)	Authority to apply regulations		
§142.10(b)(6)(ii)	Authority to sue in courts of competent jurisdiction		
§142.10(b)(6)(iii)	Right of Entry		
§142.10(b)(6)(iv)	Authority to Require Records		
§142.10(b)(6)(v)	Authority to Require Public Notification		
§142.10(b)(6)(vi)	Authority to Assess Civil and Criminal Penalties		
§142.10(c)	Maintenance of Records		

Required Program Elements		Revision to State Program	EPA Findings/Comments
§142.10(f)	Administrative Penalty Authority*		
§142.10(g)	Electronic Reporting Regulations**		

\* A requirement from the 1996 SDWA Amendments. Regulations published in the April 28, 1998, *Federal Register*.

\*\* Regulations published in the October 13, 2005, *Federal Register*.

### 4.3.2 Text of the State's Regulation

Each primacy application package should include the appropriate text of the state's regulations.

### 4.3.3 Primacy Revision Crosswalk

The Primacy Revision Crosswalk, in Appendix A of this document, should be completed by states in order to identify state statutory or regulatory provisions that correspond to each federal requirement. If the state's provisions differ from federal requirements, the state should explain how its requirements are "no less stringent."

### 4.3.4 State Recordkeeping Requirements [40 CFR 142.14(f)]

Under the PN Rule, each state that has primary enforcement responsibility must maintain for 3 years: records of certifications of compliance, copies of public notices received from the PWSs, and any state determinations establishing alternative PN requirements for the water systems.

### 4.3.5 State Reporting Requirements [40 CFR 142.15(a)(1)]

Under the PN Rule, states must report whether there is a violation of the PN Rule (initial or repeat notice, certification, etc.). In addition, the state needs to provide:

- Date of the PN violation.
- Link to the underlying NPDWR violation.
- When the system has returned to compliance for the PN violation.
- If the state brought formal enforcement action, the type of action, the date it was initiated, and the date the violation was resolved.

The revised PN Rule requires states to report the information specified above within 45 days after the quarter in which the PN violation occurred, or in which the system returned to compliance. Additional information on state reporting is in Section 5 of this document.

### 4.3.6 Special Primacy Requirements [40 CFR 142.16]

Special primacy conditions pertain to specific regulations where implementation of the PN Rule involves activities beyond general primacy provisions. States must include these rule-distinct provisions in an application for approval or revision of their program. 40 CFR 142.16(a)(1) requires states to submit complete and final requests for approval of program revisions to adopt the revised PN requirements. In addition, it allows states to establish alternative PN requirements with respect to the form and content of the public notice. Alternative requirements for form and content must be designed to provide the same type and amount of information as is required under Subpart Q. The Special Primacy Requirements section of the crosswalk is where the state has the opportunity to describe how it will satisfy these

provisions. Section 4.4 provides guidance on how states may choose to meet the Special Primacy Requirements of the PN Rule.

#### **4.3.7 Attorney General’s Statement of Enforceability [40 CFR 142.12(c)(2)]**

The complete and final primacy revision application must include an Attorney General’s Statement certifying that the state regulations were duly adopted and are enforceable (unless EPA has waived this requirement by letter to the state). The Attorney General’s Statement should also certify that the state does not have any audit privilege or immunity laws or, if it has such laws, that these laws do not prevent the state from meeting the requirements of the SDWA. If a state has submitted this certification with a previous revision package, then the state should indicate the date of submittal and the Attorney General need only certify that the status of the audit laws has not changed since the prior submittal. An example of an Attorney General’s Statement is presented in Example 4-2.

#### **Example 4-2. Example of Attorney General’s Statement**

<b>Model Language</b>	
I hereby certify, pursuant to my authority as (1) and in accordance with the Safe Drinking Water Act as amended, and (2), that in my opinion the laws of the [State/Commonwealth of (3)] [or tribal ordinances of (4)] to carry out the program set forth in the “Program Description” submitted by the (5) have been duly adopted and are enforceable. The specific authorities provided are contained in statutes or regulations that are lawfully adopted at the time this Statement is approved and signed and will be fully effective by the time the program is approved.	
I.	For States with No Audit Privilege and/or Immunity Laws  Furthermore, I certify that [State/Commonwealth of (3)] has not enacted any environmental audit privilege and/or immunity laws.
II.	For States with Audit Laws that do Not Apply to the State Agency Administering the Safe Drinking Water Act  Furthermore, I certify that the environmental [audit privilege and/or immunity law] of the [State/Commonwealth of (3)] does not affect the ability of (3) to meet enforcement and information gathering requirements under the Safe Drinking Water Act because the [audit privilege and/or immunity law] does not apply to the program set forth in the “Program Description”. The Safe Drinking Water Act program set forth in the “Program Description” is administered by (5); the [audit privilege and/or immunity law] does not affect programs implemented by (5), thus the program set forth in the “Program Description” is unaffected by the provisions of [State/Commonwealth of (3)] [audit privilege and/or immunity law].
III.	For States with Audit Privilege and/or Immunity Laws that Worked with EPA to Satisfy Requirements for Federally Authorized, Delegated, or Approved Environmental Programs  Furthermore, I certify that the environmental [audit privilege and/or immunity law] of the [State/Commonwealth of (3)] does not affect the ability of (3) to meet enforcement and information gathering requirements under the Safe Drinking Water Act because [State/Commonwealth of (3)] has enacted statutory revisions and/or issued a clarifying Attorney General’s Statement to satisfy requirements for federally authorized, delegated, or approved environmental programs.



Model Language	
Seal of Office	
	_____ Signature
	_____ Name and Title
	_____ Date
(1)	State Attorney General or attorney for the state if it has independent legal counsel.
(2)	40 CFR 142.11(a)(6)(i) for initial primacy applications or 40 CFR 142.12(c)(1)(iii) for primacy program revision applications.
(3)	Name of state or commonwealth.
(4)	Name of tribe.
(5)	Name of state.

#### 4.3.7.1 Guidance for States on Audit Privilege and/or Immunity Laws

In order for EPA to properly evaluate the state's request for approval, the State Attorney General or independent legal counsel should certify that the state's environmental audit immunity and/or privilege and immunity law does not affect its ability to meet enforcement and information gathering requirements under SDWA. This certification should be reasonably consistent with the wording of the state audit laws and should demonstrate how state program approval criteria are satisfied.

EPA will apply the criteria outlined in its "Statement of Principles" memo issued on February 14, 1997, (<http://www.epa.gov/osw/laws-regs/state/policy/policies.htm>) to determine whether states with audit laws have retained adequate enforcement authority for any authorized federal programs. The principles articulated in the guidance are based on the requirements of federal law, specifically the enforcement and compliance and state program approval provisions of environmental statutes and their corresponding regulations. The Principles provide that if provisions of state law are ambiguous, it will be important to obtain opinions from the State Attorney General, or independent legal counsel, interpreting the law as meeting specific federal requirements. If the law cannot be so interpreted, changes to state laws may be necessary to obtain federal program approval. Before submitting a package for approval, states with audit privilege and/or immunity laws should initiate communications with appropriate EPA regional offices to identify and discuss the issues raised by the state's audit privilege and/or immunity law.

The guidance for states on Audit Law Privilege and/or Immunity Laws is currently under review. If amended, EPA will issue an addendum to this document with the revised guidance.

## 4.4 Guidance for the Special Primacy Requirements of the PN

In addition to adopting basic primacy requirements specified in 40 CFR 142, states are required to adopt primacy provisions pertaining to specific regulations where implementation of the Rule involves activities beyond general primacy provisions. The purpose of these provisions is to allow state flexibility in implementing a regulation that: (1) applies to specific system configurations within the particular state; and, (2) can be integrated with a state's existing PWSS Program. States must include these rule-distinct provisions in an application for approval or revision of their programs.

EPA believes these special primacy requirements are very important to implementation of the PN Rule. These provisions give states the flexibility to augment or otherwise change the federal requirements to build a more complete and effective state public notification program. In some cases the provisions

provide states with the option to tailor the EPA baseline requirements to increase program flexibility and in other cases to be more stringent than the Federal Rule. Adoption of these provisions is not mandatory, but for any provision a state chooses to adopt and address in the primacy revision application, the state should provide a general explanation of how it intends to implement the provision. For the purpose of satisfying primacy review, EPA does not expect a state to describe detailed technical procedures for evaluations that will be done on a case-by-case basis. Special primacy requirements for the PN Rule are listed in 40 CFR 142.16(a) and described below.

40 CFR 142.16(a)(1) requires states to submit complete and final requests for approval of program revisions to adopt the revised PN requirements. In addition, it allows states to establish alternative public notification requirements with respect to the form and content of the public notice. Alternative requirements for form and content must be designed to provide the same type and amount of information as is required under Subpart Q. Primacy states must adopt the revised PN requirements or develop an alternative public notification program that provides the same type and amount of information as the Federal Rule and submit its primacy revision application package or a request for an extension to EPA by May 6, 2002.

Section 142.16(a)(2) requires states to establish enforceable requirements and procedures when a state opts to add to or change the minimum requirements under:

- 1) Table 1 to 40 CFR 141.201(a) (Item 3v) – To require public water systems to give a public notice for violations or situations other than those listed in Appendix A to Subpart Q of the Rule.
- 2) 40 CFR 141.201(c)(2) – To allow public water systems, under the specific circumstances listed in 40 CFR 141.201(c)(2), to limit the distribution of the public notice to persons served by the portion of the distribution system that is out of compliance.
- 3) Table 1 of 40 CFR 141.202(a) (Items 5, 6, and 9) – To require public water systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations listed in Appendix A of Subpart Q of the Rule.
- 4) 40 CFR 141.202(b)(3) – To require public water systems to comply with additional Tier 1 public notification requirements set by the state subsequent to the initial 24-hour Tier 1 notice, as a result of their consultation with the state required under 40 CFR 141.202(b)(2).
- 5) 40 CFR 141.202(c), 141.203(c) and 141.204(c) – To require a different form and manner of delivery for Tier 1, 2 and 3 public notices.
- 6) Table 1 to 40 CFR 141.203(a) (Item 2) – To require the public water systems to provide a Tier 2 public notice (rather than Tier 3) for monitoring or testing procedure violations specified by the state.
- 7) 40 CFR 141.203(b)(1) – To grant public water systems an extension of up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the Rule).
- 8) 40 CFR 141.203(b)(2) – To grant a different repeat notice frequency for the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the Rule), but no less frequently than once per year.

- 9) 40 CFR 141.203(b)(3) – To respond within 24 hours to a request for consultation by the public water system to determine whether a Tier 1 (rather than a Tier 2) notice is required for a turbidity MCL violation under 40 CFR 141.13(b) or a Surface Water Treatment Rule (SWTR)/Interim Enhanced SWTR (IESWTR)/treatment technique (TT) violation due to a single exceedance of the maximum allowable turbidity limit.
- 10) 40 CFR 141.205(c)(2) – To determine the specific multilingual requirement for a public water system, including defining a “large proportion of non-English-speaking consumers.”

*Note: States may assign the responsibility for the multilingual requirement determination to the water system. If a state chooses not to set its own criteria, systems must meet the general requirement set in the rule, which is to provide such information when appropriate.*

The following sections contain guidance states can use when addressing the 10 special primacy requirements listed above and in 40 CFR 142.16(a)(2). As part of a state’s revised primacy program, the state must establish enforceable requirements and procedures to meet each special primacy requirement identified in 40 CFR 142.16(a)(2) which the state chooses to adopt.

Six of the 10 special primacy requirements listed in 40 CFR 142.16(a)(2) describe scenarios under which states may elect to be more stringent than the Federal Rule. For those provisions, EPA requires states to provide a general explanation of how the state will address the provision. EPA is not asking states to provide specific and detailed justification for the scenarios in which they elect to be more stringent than the Federal Rule. States are free to establish requirements that are more stringent than the EPA program without including them in their approved primacy program. For the areas of state flexibility listed in 40 CFR 142.16(a)(2) which a state chooses to adopt, a state has the option of: 1) identifying in the crosswalk modifications to the Federal Rule consistent with 40 CFR 142.16(a); or 2) describing in its primacy revision application the criteria it will use to make allowed modifications on a case-by-case basis.

#### **4.4.1 Special Primacy for Requiring Public Notice for Violations or Situations Other Than Those Listed in Appendix A to Subpart Q**

*For 40 CFR 141.201(a) (Table 1, Item 3v), a state must provide additional information if they require public water systems to give a public notice for violations or situations other than those listed in Appendix A to Subpart Q [40 CFR 142.16(a)(2)(i)].*

The PN Rule allows states to determine if there are violations or other situations not listed in Appendix A to Subpart Q that should require public notice due to the potential for serious adverse effects on human health. EPA expects that states will wish to use this flexibility to tailor their programs to respond to their unique public notification policies and situations.

A state has the option of identifying in its rules the other violations and situations that may require notice. For example, a state may specify in its rules that a public notice must be issued if the state determines that circumstances exist which may present a potential danger to drinking water consumers, based on information from the water system or other sources. Circumstances could include but are not limited to source contamination, spills, accidents, natural disasters, conditions found during an inspection or sanitary survey, or breakdowns in treatment. A state may also choose to make such determinations on a case-by-case basis. In that circumstance, the state may explain in their primacy revision application either the conditions or process by which the state would require notice. The explanation could be a general statement of the states’ intention to require water systems to issue a Tier 1 public notice for other violation or situations, not listed in Appendix A to Subpart Q, with significant potential to have serious

adverse health effects from short-term exposure. Evaluation of any violation or situations would be conducted by the state on a case-by-case basis, using the potential danger to drinking water consumers as one criterion.

#### **4.4.2 Special Primacy Requirements Regarding Limited Distribution of Public Notice to Persons Served by the Portion of the Distribution System that is Out of Compliance**

*A state must provide additional information if they allow public water systems, under the specific circumstances listed in 40 CFR 141.201(c)(2), to limit the distribution of the public notice to persons served by the portion of the distribution system that is out of compliance [40 CFR 142.16(a)(2)(ii)].*

The PN Rule requires systems to provide public notice to persons served system-wide within a specified timeframe. However, the PN Rule allows states to grant exceptions to the system-wide notice obligation where the violation is clearly contained within a portion of the distribution system that is either physically or hydraulically isolated from the rest of the distribution system. In those two specific circumstances, states have the flexibility to allow systems to limit the distribution of the public notice to persons served by the portion of the system that is out of compliance. Unless states provide systems with this determination in writing, systems must distribute the notice to persons served by the entire system.

If a state chooses to exercise this flexibility, the state should explain in their primacy revision application how the determination to grant exceptions to the system-wide distribution requirement will be made. For example, if a state opts to make this determination on a case-by-case basis then it should explain that each case will be evaluated on the two regulatory criteria specified in the PN Rule. In order to meet the criterion for physical isolation, a system must show that the affected portion of the distribution system is separated from other parts of the distribution system with no interconnections. Because of the physical separation, elevated contaminant levels contained in only that portion of the system would have no bearing on contaminant levels in a separate area of the system. To meet EPA's criterion for hydraulic isolation, a system must show that design of the distribution system and/or system operation created a situation where water in the affected portion is effectively isolated from the water in all other parts of the distribution system because of projected water flow patterns and water pressure zones.

#### **4.4.3 Special Primacy Requirements Regarding Which Violations or Situations Require a Tier 1 Public Notice**

*For 141.202(a) (Items 5, 6, and 9 of Table 1), a state must provide additional information if they require public water systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations listed in Appendix A of Subpart Q [40 CFR 142.16(a)(2)(iii)].*

This special primacy requirement addresses state flexibility to require systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations not explicitly listed by EPA in Appendix A to Subpart Q as requiring Tier 1 notice. EPA authorized and expects states to elevate either violations or situations when necessary to protect public health. State flexibility to elevate the status of a violation to Tier 1, EPA believes, is critical to the successful implementation of the PN Rule. Therefore, EPA anticipates that most states will respond to this special primacy requirement in their primacy revision applications.

The PN Rule identified the following three situations where states may exercise flexibility to require a Tier 1 notice:

- 1) Violation of the turbidity MCL, under 40 CFR 141.13(b), where the state determines after consultation whether a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation [141.202(a)-Item 5 of Table 1].
- 2) Violation of the SWTR, IESWTR, or LT1ESWTR treatment technique requirements resulting from a single exceedance of the maximum allowable turbidity limit (as identified in Appendix A to Subpart Q) [141.202(a)-Item 6 of Table 1].
- 3) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure [141.202(a)-Item 9 of Table 1].

Although EPA recognizes that the majority of situations are best determined on a case-by-case basis, the Agency believes there are certain situations that should be elevated to Tier 1 status. All Tier 2 violations with significant potential to cause serious adverse health effects as a result of short-term exposure should be elevated to Tier 1 status. For example, EPA believes violations of the maximum turbidity level are serious situations requiring immediate consultation to determine the best course of action. In some cases, violation of the maximum turbidity level, combined with other site-specific information, might indicate that pathogens may have passed through to the finished water. In those situations, the public needs to be alerted quickly to the high potential for short-term health risk. However, EPA does not believe that all maximum turbidity excursions will require a Tier 1 notice and expects states to evaluate the merits of each case during the consultation.

Since turbidity exceedance by itself, without other supporting information, has not been shown to date to be a predictable indicator of pathogen loading in the finished water, EPA expects most turbidity exceedances will require a Tier 2 notice. A single exceedance of the maximum allowable turbidity limit, although a treatment technique violation, may also prove to be a false reading because of a testing equipment malfunction. For these reasons, EPA classified all turbidity violations as Tier 2, but added the new requirement that PWSs consult with the state within 24 hours when exceedances of the maximum allowable turbidity limit occur. After consultation with the system, a state could direct the system to issue a Tier 1 notice. EPA believes the requirement for immediate consultation for these situations will ensure that Tier 1 notices will be required when supported by the evidence. If a system cannot consult with the state within the 24-hour time period, the Rule requires an automatic Tier 1 notice.

In addition to violations of the maximum allowable turbidity limit, EPA recognizes that there may be other violations or situations where elevation to a Tier 1 notice may be required. For example, a Total Coliform Rule (TCR) or SWTR violation may create a significant and immediate health risk. In those situations, a Tier 1, 24-hour public notice is necessary to immediately alert consumers to the potential risk rather than a Tier 2 notice.

A state can identify in its rules the violations or other situations not listed in Appendix A to Subpart Q that would require Tier 1 notice or describe the criteria it will use to make that determination on a case-by-case basis in its primacy revision application. EPA is not asking states to provide specific and detailed justification for the scenarios in which the state elects to be more stringent than the Federal Rule. Rather, a general description of either the conditions or process by which the state would make the determination to elevate to Tier 1 status is sufficient. For example, a state may explain that the determination to elevate to Tier 1 will be made on a case-by-case basis because the potential health risk associated with some violations or situations are dependent on a combination of factors. Some factors that might play into the decision-making process to elevate a turbidity violation include but are not limited to: if turbidity is significantly higher than the limit; if turbidity is above the limit for multiple measurements; what type of treatment occurs after the turbidity measuring point; and whether the source water quality is good. In

addition the type of system, limits the system is subject to, and the type of filtration need to be considered.

#### **4.4.4 Special Primacy for Requiring Additional Public Notice for Tier 1 Violations**

*A state must provide additional information if they require public water systems to comply with additional Tier 1 public notification requirements set by the state subsequent to the initial 24-hour Tier 1 notice, as a result of the water system's consultation with the state required under 40 CFR 141.202(b)(3) [40 CFR 142.16(a)(2)(iv)].*

EPA believes Tier 1 violations have a significant potential to cause serious adverse health effects from short-term exposure and has mandated consultation between the water system and the state. Systems have 24 hours after learning of the violation to initiate consultation with the state and determine if the state will establish subsequent PN requirements. Systems must comply with any additional PN requirements established during that consultation. This special primacy requirement addresses state flexibility to determine under what circumstances additional public notice should be given by the system to make sure all persons served are informed of the seriousness of the violation.

EPA encourages states to require additional notice in situations where: 1) there was inadequate delivery of the initial notice, 2) special populations need to be informed, and 3) the system returned to compliance. For example, if the methods used to deliver Tier 1 public notice were insufficient, inadequate, or inappropriate, additional notices may be necessary to reach other persons served who may not have seen the initial notice and to emphasize the seriousness of the public health risk from drinking the water. Additional notices may also be needed if new information becomes available, or to target special populations such as hospitals, schools, day-care facilities and/or other healthcare professionals. A supplemental notice announcing that the violation has been resolved and the risk from the drinking water has been abated can bring closure to the emergency situation. Although the final Rule does not require systems to send such notice, EPA believes it is a good idea.

Additional notice requirements may also address the timing, manner, frequency, and content of repeat notices as well as other actions designed to reach all persons served. EPA expects states to use this authority to ensure effective, enforceable follow-up to the initial Tier 1 notice. In order to satisfy this special primacy requirement, a state has the option of identifying in its rules specific situations where additional notice would be required. If states wish to address this on a case-by-case basis, states should explain how they would establish procedures to determine when additional notice is needed and to require systems to comply with the additional notification requirements in their primacy revision applications.

#### **4.4.5 Special Primacy Requirements Regarding Different Form, Manner, and Delivery for Tier 1, 2, and 3 Public Notices**

*For 40 CFR 141.202(c), 141.203(c), & 141.204(c), a state must provide additional information if they allow systems to use a different form and manner of delivery for Tier 1, 2 and 3 public notices not already listed in EPA's rule [40 CFR 142.16(a)(2)(v)].*

In accordance with the PN Rule, a PWS must use at a minimum, one of the delivery methods specified for the appropriate Tier and any additional methods "reasonably calculated" to reach all persons served. This means that water systems have a responsibility to use any method reasonably calculated to reach other persons served by the system if they would not be reached by minimum methods specified in the Rule. This special primacy requirement addresses state flexibility to approve in writing the use of a substitute delivery method not already listed in the PN Rule. EPA recognizes the need to tailor any additional methods of delivery used to the specific situation and believes states will make this determination on a case-by-case basis. For example, the list of required delivery methods (broadcast media, posting and hand

delivery) may be too limiting and inappropriate for some Tier 1 situations. Additional methods a state may wish to substitute include newspaper, postal patron mailings, e-mail or priority mail.

A state has the option of identifying in its rules any alternate PN form and manner requirements or describing, in its primacy revision application, the criteria it will use to make these case-by-case determinations.

#### **4.4.6 Special Primacy for Requiring Tier 2 Public Notice (Rather Than Tier 3 Notice) for Specific Monitoring or Testing Procedure Violations**

*For 40 CFR 141.203(a), a state must provide additional information if they plan to require public water systems to provide a Tier 2 public notice (rather than Tier 3) for monitoring or testing procedure violations specified by the state [40 CFR 142.16(a)(2)(vi)].*

In accordance with the PN Rule, states can determine that a Tier 2 public notice (rather than a Tier 3 notice) is required for certain violations of monitoring and testing procedure requirements. This special primacy requirement gives states the flexibility to address cases where persistent monitoring violations could disguise potentially serious drinking water quality violations and the lack of a timely notice may pose a risk to public health.

A state has the option of identifying in its rules, the specific monitoring and testing procedure violations listed in Appendix A to Subpart Q that require Tier 2 notice or describing the criteria it will use to make these case-by-case determinations in its primacy revision application. Criteria may include but are not limited to potential health impacts and the persistence of the violation.

EPA expects states to build this additional authority into their approved programs to ensure that notices for monitoring violations posing potential serious adverse health effects are delivered within 30 days. EPA is not asking states to provide specific and detailed justification for the scenarios in which the state elects to be more stringent than the Federal Rule. Rather a general description of either the conditions or process by which the state would make the determination to elevate to Tier 2 status is sufficient.

#### **4.4.7 Special Primacy Requirements Regarding Extending the Initial Tier 2 Public Notice Distribution Deadline**

*For 40 CFR 141.203(b)(1), a state must provide additional information if they plan to grant public water systems an extension up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the Rule) [40 CFR 142.16(a)(2)(vii)].*

The PN Rule allows states, in appropriate circumstances, to extend the time period of the Tier 2 initial notice from 30 days to up to three months. This special primacy requirement addresses state flexibility to determine when deviations from the minimum required timeframe for Tier 2 notices are warranted. These determinations must be made in writing.

Circumstances that may warrant an extension include but are not limited to, coordination with billing cycles and return to compliance. An extension for up to three months may allow a system to include the initial notice in the same mailing as the quarterly bill. For violations that were quickly resolved and no longer pose any risk to persons served, an extension may be appropriate so the system can also report a return to compliance.

Although there may be a number of reasons to grant an extension, there are two circumstances where EPA believes extending the Tier 2 deadline is inappropriate: 1) extensions for unresolved violations; and, 2) “across-the-board” or “blanket” extensions for all violations of a certain type (e.g., all volatile organic contaminant (VOC) MCL violations). EPA strongly believes that in order to meet the public health objectives of the PN Rule, the Tier 2 deadline of 30 days is sufficient for water systems to notify their consumers of unresolved violations with potential for serious risk. EPA does not intend for extensions to be automatic, but to be reviewed on a case-by-case basis. Therefore, EPA views “blanket” extensions as contrary to the goals of the Rule.

*Note: This special primacy requirement applies only to extensions of the Tier 2 notice deadline. The Rule gives states broad flexibility to deviate from the required timeframe of 30 days. This includes being more stringent than the Rule. For example, it is acceptable for a state to shorten the deadline for issuing PN for a monthly coliform violation to 14 days. The state does not need to submit documentation when shortening a timeframe.*

A state may identify in its rules the appropriate circumstances under which the Tier 2 notice distribution deadline may be extended or describe the criteria it will use to make that determination on a case-by-case basis in its primacy revision application.

#### **4.4.8 Special Primacy Requirements Regarding Extending the Tier 2 Notice Repeat Frequency**

*For 40 CFR 141.203 (b)(2), a state must provide additional information if they grant a different repeat notice frequency for the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule), but no less frequently than once per year [40 CFR 142.16(a)(2)(viii)].*

The PN Rule gives states the flexibility to allow a less frequent repeat notice than the PN Rule’s requirement of every three months. Notices must be issued no less than once per year for unresolved Tier 2 violations. However, the PN Rule specifically disallows less frequent repeat notices for unresolved violations posing potential risk from short-term exposure (e.g., unresolved TCR violations or treatment technique violations under the SWTR or IESWTR Rules) or for all unresolved violations of a certain violation type. The state can require a different repeat notice frequency for the Tier 2 public notice (to be no less frequent than once per year), for appropriate circumstances defined in the state’s primacy program. Similar to extending the Tier 2 initial notice distribution deadline, a state may identify in its rules the circumstances under which extensions may be given or describe the criteria it will use to make these case-by-case determinations in its primacy revision application.

#### **4.4.9 Special Primacy for Requiring a Tier 1 Public Notice (Rather Than Tier 2 Notice) for a Turbidity MCL Violation under 40 CFR 141.13(b) or a SWTR/IESWTR/LT1ESWTR TT Violation Due to a Single Exceedance of the Maximum Allowable Turbidity Limit**

*For 40 CFR 141.203(b)(3), a state must provide information on any process developed to respond within 24 hours to a request for consultation by the public water system to determine whether a Tier 1 (rather than a Tier 2) notice is required for a turbidity MCL violation under 40 CFR 141.13(b) or a SWTR/IESWTR/LT1ESWTR TT violation due to a single exceedance of the maximum allowable turbidity limit [40 CFR 142.16(a)(2)(ix)].*

This special primacy requirement addresses the ability of the state to respond within 24-hours to a request for consultation by a PWS to determine whether a Tier 1 notice is required for a turbidity violation under



40 CFR 141.13(b) or a SWTR/IESWTR/LT1ESWTR TT violation due to single exceedance of the maximum allowable turbidity limit. If a system cannot consult with the state within the 24-hour time period, the Rule requires an automatic Tier 1 notice. EPA believes the ability of a state to respond to a system's request for consultation is critical to the successful implementation of the PN Rule. EPA expects states to establish a process that would lead to determination within the 24-hour window to avoid a "no action" default to a Tier 1 notice on every turbidity single exceedance violation. As discussed for special primacy requirement 40 CFR 142.16(a)(2)(iii), EPA believes violations of the maximum turbidity level are serious situations requiring immediate consultation to determine the best course of action. EPA does not believe that all turbidity excursions will require a Tier 1 notice and expects states to evaluate the potential health risks of each case during the consultation.

In order to address this special primacy requirement, a state should describe the process it has developed to respond within the 24-hour time frame to a PWS's request for consultation. Some states already have emergency hotlines for systems to use.

#### **4.4.10 Special Primacy Requirements Regarding Multilingual Notice Requirement**

*For 40 CFR 141.205(c), a state must provide additional information if they determine the specific multilingual requirement for a public water system, including defining "large proportion of non-English-speaking consumers" [40 CFR 142.16(a)(2)(x)].*

The PN Rule requires systems serving a large proportion of non-English speaking consumers, as determined by the state, to include in their notices, in the appropriate languages, information on the importance of the notice or a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate languages. This special primacy requirement addresses state flexibility to determine the specific multilingual requirement for systems, including defining a large proportion of non-English speaking populations. States can set their own criteria for determining whether there is a large proportion of non-English speaking consumers. For example, a state could specify a population threshold such as 10 percent, so that when over 10 percent of the population served uses a language or languages other than English as their first language, multilingual information must be included in the notice. If a state chooses not to set its own criteria, water systems must meet the general requirement set in the federal Rule, which is providing such information when appropriate. Information on whether there is a significant non-English speaking population in a community can be found through the US Census Bureau's Web site at [factfinder.census.gov](http://factfinder.census.gov).

EPA strongly encourages the use of multilingual notification if non-English speaking populations are in the system's service area, whether or not there is a large proportion of non-English speaking people, because public notification of drinking water violations and other situations is an important means of protecting public health. Although full translations of notices are not required, EPA strongly encourages systems to go beyond the minimum multilingual requirements in the Rule, particularly for Tier 1 notices and other situations that pose a serious health risk, and provide a translated copy of the notice on request or offer telephone assistance in the appropriate language. The revised CWS and NTNCWS PN Handbook (EPA 816-R-09-013) and the revised TNCWS PN Handbook (EPA 816-R-09-009) contain additional hints on implementing this requirement.

A state has the option of identifying in its rules the more specific multilingual requirements or describing the criteria it will use to make such case-by-case determinations in its primacy revision application.

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## **Section 5**

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# **Violation Determination and Safe Drinking Water Information System (SDWIS) Reporting**

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## **5.1 Determining Violations of the PN Rule**

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One of the important factors to making the public notification process work is the timely and complete reporting of violations of the PN Rule by the states. A 1992 review of the public notification process by the General Accounting Office (GAO) provided strong evidence that the program was not working as intended. Problems cited included: high rates of non-compliance, even when contaminants pose a health risk; limited non-compliance tracking by both EPA and the states; and the complexity of the Rule. In order to address those problems, EPA revised the PN requirements to be less complex, more clear, and self-implementable. EPA believes these streamlined requirements encourage more water systems to comply with the Rule and are less burdensome than the previous Rule for state tracking and reporting of violations. However, the program will not succeed without compliance monitoring and follow-up actions by the state and EPA.

Flowcharts 1, 2, and 3 starting on the next page provide timelines for actions PWSs must take under the PN Rule, once a system learns of a Tier 1, 2, or 3 violation or situation.

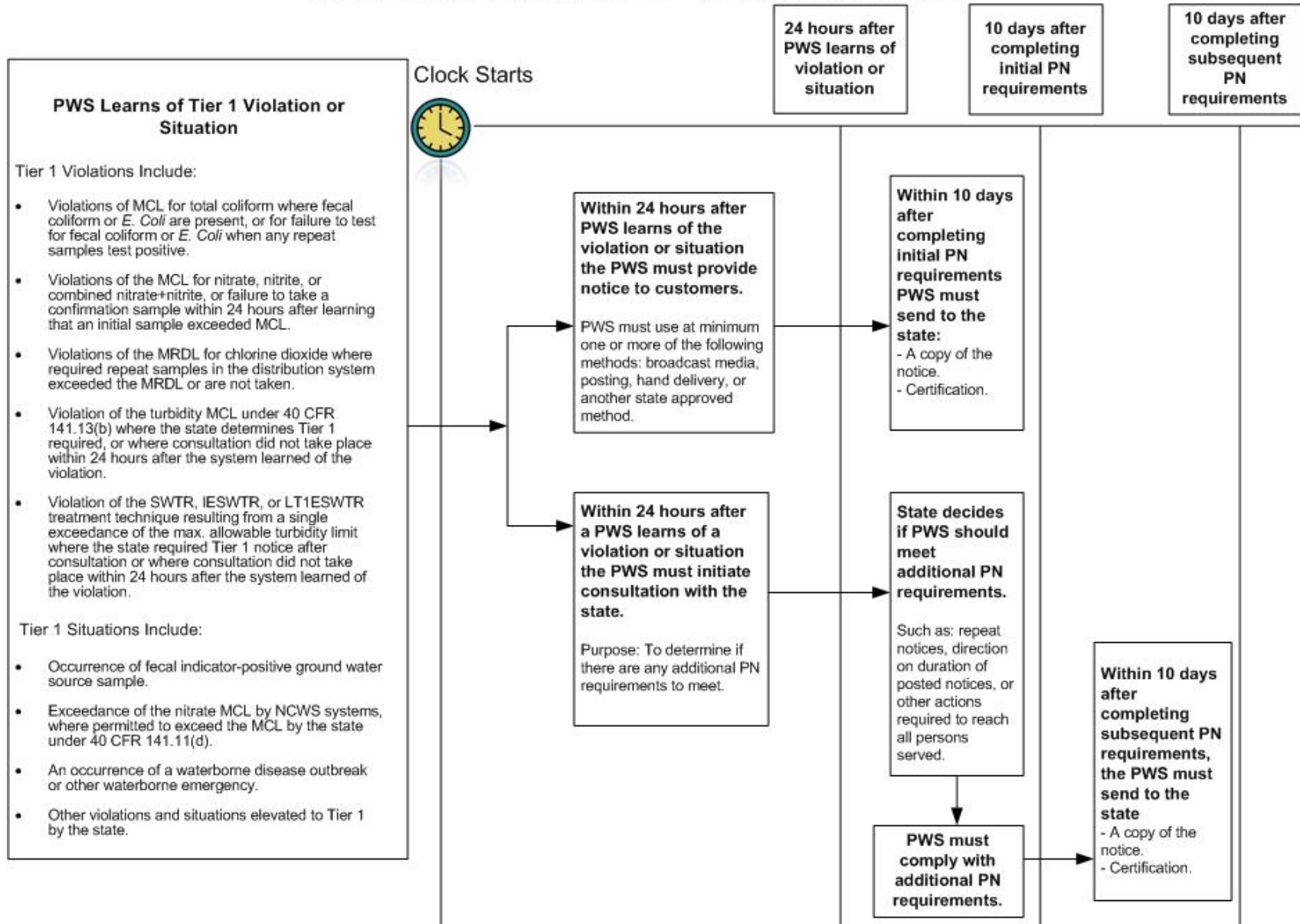
### **5.1.1 What constitutes a violation of the PN Rule?**

The trigger point for public notification is when a system learns that a violation or other situation posing a health risk exists. From that point on, the Rule prescribes specific time lines a PWS must meet to: 1) distribute the notice to persons served; 2) provide the state with a representative copy of the initial and any repeat notices; and 3) certify to the state that all applicable PN requirements were met. The Rule also prescribes the form, manner, and frequency of the public notices.

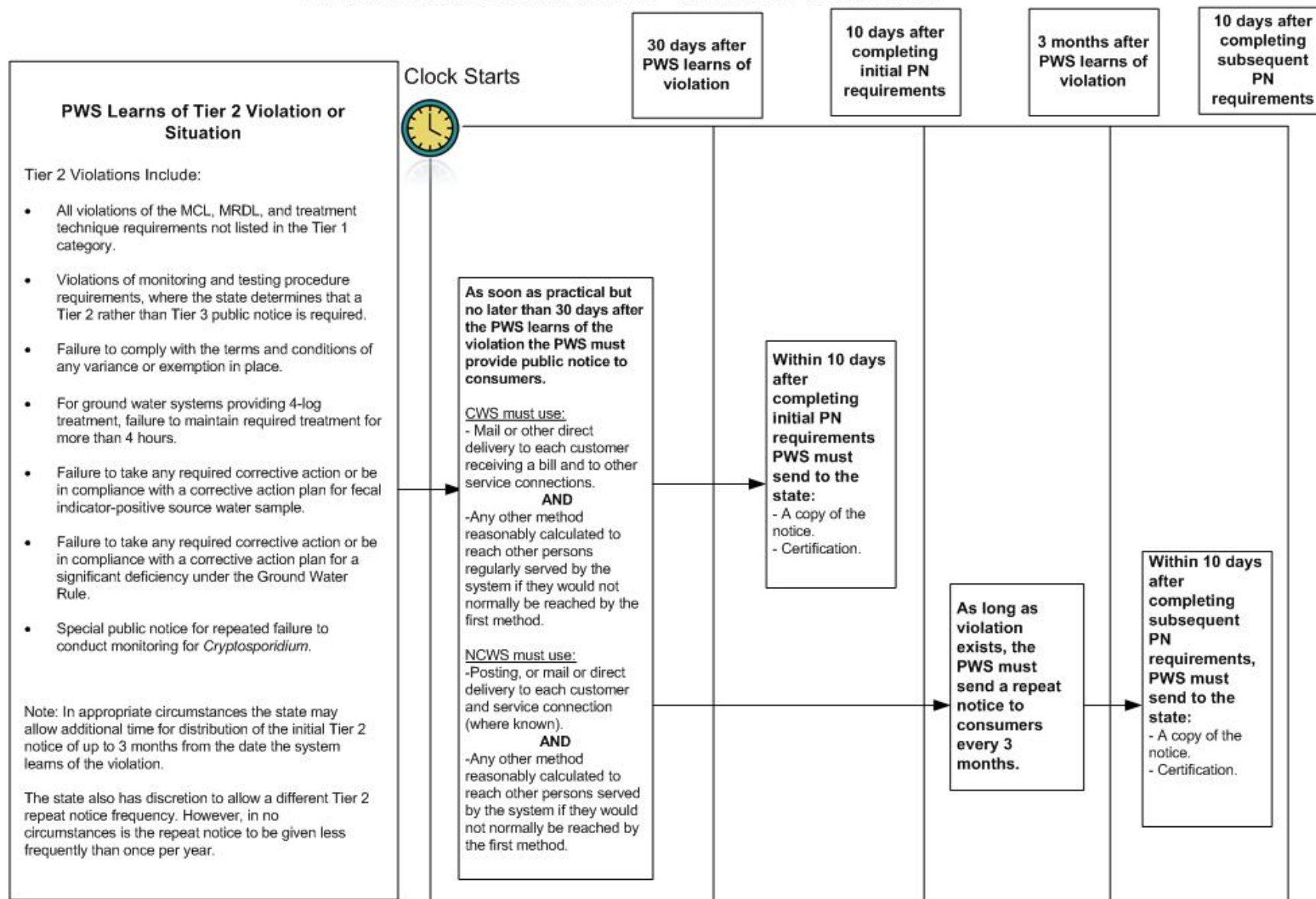
A system can incur a violation of the PN Rule for failing to:

- Prepare and deliver public notice to consumers in accordance with the Rule.
- Submit to the state within 10 days of completing the public notification requirements, a certification that it has fully complied with the PN Rule and a representative copy of the notice.

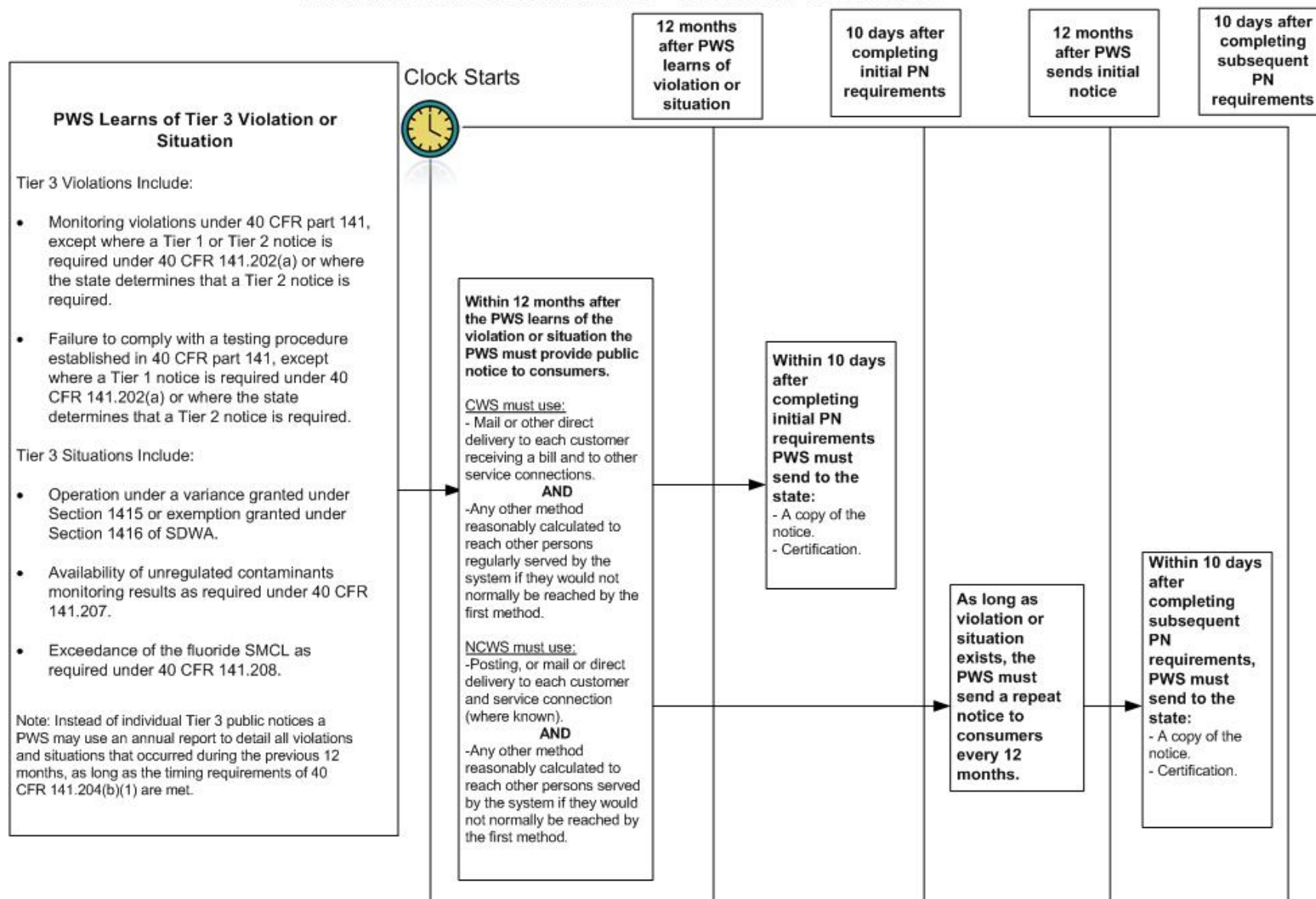
**Flowchart 1: Tier 1 Public Notices – Timeline for PWS Actions**



**Flowchart 2: Tier 2 Public Notices – Timeline for PWS Actions**



**Flowchart 3: Tier 3 Public Notices – Timeline for PWS Actions**





### **5.1.2 How is a Violation of the PN Rule Identified?**

EPA anticipates that states will primarily rely on the certification (or lack thereof) to track whether a PWS has met all applicable PN requirements, unless the state chooses to use additional tracking methods or believes that the certification is not reliable. 40 CFR 141.31(d) requires water systems to submit a copy of the notice and a certification to the state within 10 days of completing the PN requirements for the initial public notice and any repeat notices. If a state has not received a copy of the notices and a certification from a PWS within the 10-day time frame, states should assume notice was not given and record a violation of the PN Rule for that PWS in its own tracking system, and in its quarterly reporting to EPA. States should also record a violation of the PN Rule, if after state review, the state determines the notice was inadequate.

States are expected to record a violation of the PN Rule for a PWS if:

- The state did not receive copies of the notices and certifications.
- The state received any notice or certification late.
- After review, the state concluded that the form, delivery or content of an initial or repeat notice was inadequate or otherwise determined the timing or distribution requirements were not met (despite the certification).

### **5.1.3 State Enforcement, Compliance Monitoring and Assistance, or Other Follow-up**

Primacy states will have statutory or regulatory enforcement authority adequate to compel compliance with the PN requirements that conforms to the requirements in 40 CFR 142.10(b)(6). When violations of the PN Rule occur, in addition to an underlying violation for which the state brings an enforcement action, the state should include the violations of the PN Rule as part of the enforcement action for the underlying violation. For situations where there is no underlying violation, the state should enforce PN requirements independently from enforcement of underlying violations and should enforce the PN requirements. State and EPA compliance monitoring and tracking programs, as well as the linkages in their databases between the public notice violations and underlying violations, will help states and EPA to identify, address and ensure the correction of violations of the PN Rule. States should take any informal or formal measures necessary to return a PWS to compliance with the PN Rule as quickly as possible.

EPA encourages states to develop compliance assistance programs in order to help PWSs comply with the PN Rule and, in the event of a violation of the PN Rule, to return to compliance with the Rule. For example, when a state learns of an NPDWR violation or other situation, the state may remind the PWS of its obligation to provide public notice and may inform the PWS of the public notice form, manner, content, and delivery requirements. The state may also choose to give notice to the public on behalf of the PWS, in accordance with 40 CFR 141.210. However, the owner or operator of the PWS remains legally responsible for ensuring that the PN requirements are met. As part of its compliance assistance efforts, a state may provide the PWS with guidance documents, templates and other resources. See Section 2 for a list of these resources.

Flowcharts 4, 5, and 6 provide timelines for state actions, once a state learns of a Tier 1, 2, or 3 violation or situation.

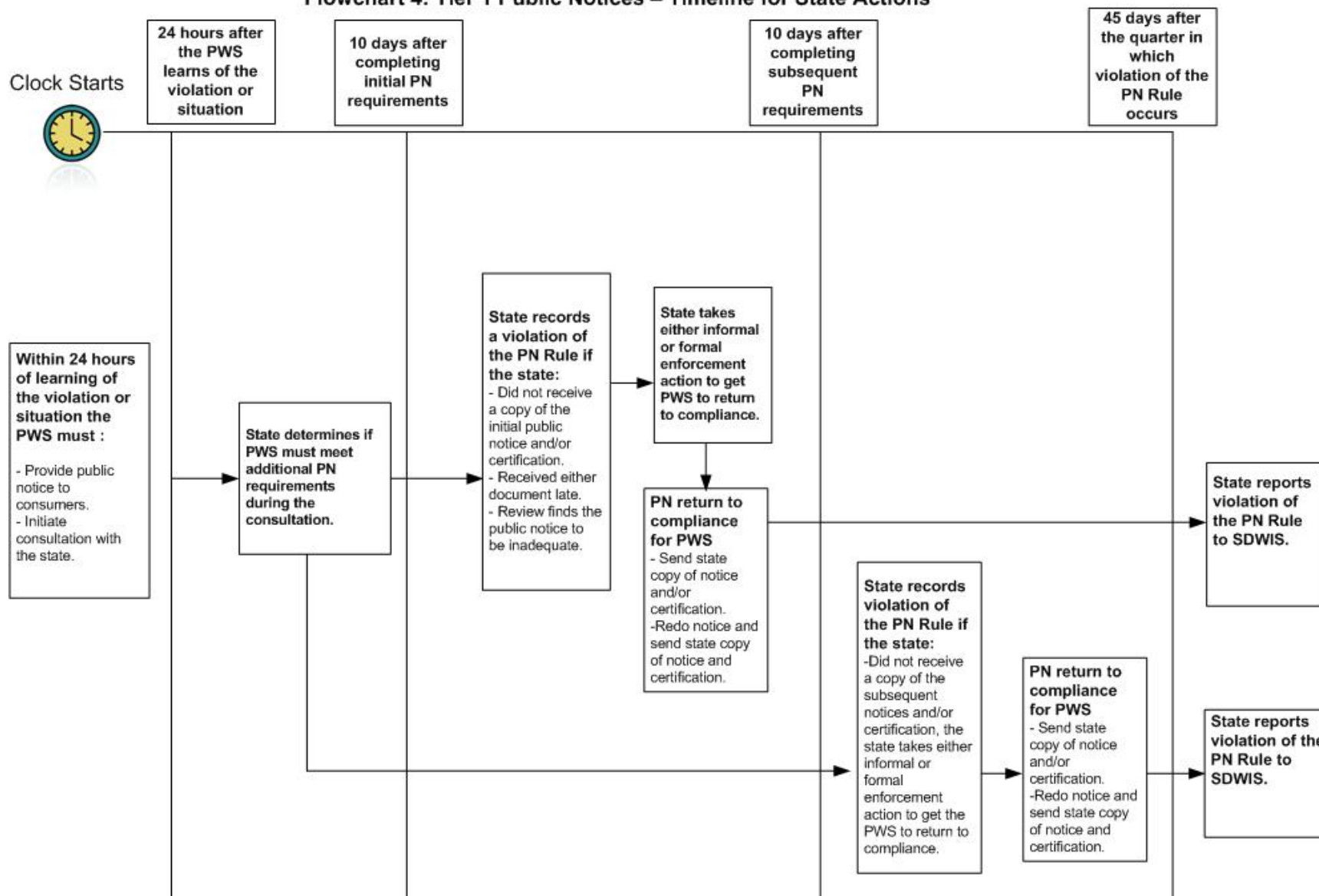
### **5.1.4 Return to Compliance**

Generally, a PWS that has violated the PN Rule returns to compliance with the Rule when it performs the action required under the Rule. The following provides some examples of what a PWS should do to return to compliance. These examples may not include all return to compliance situations:

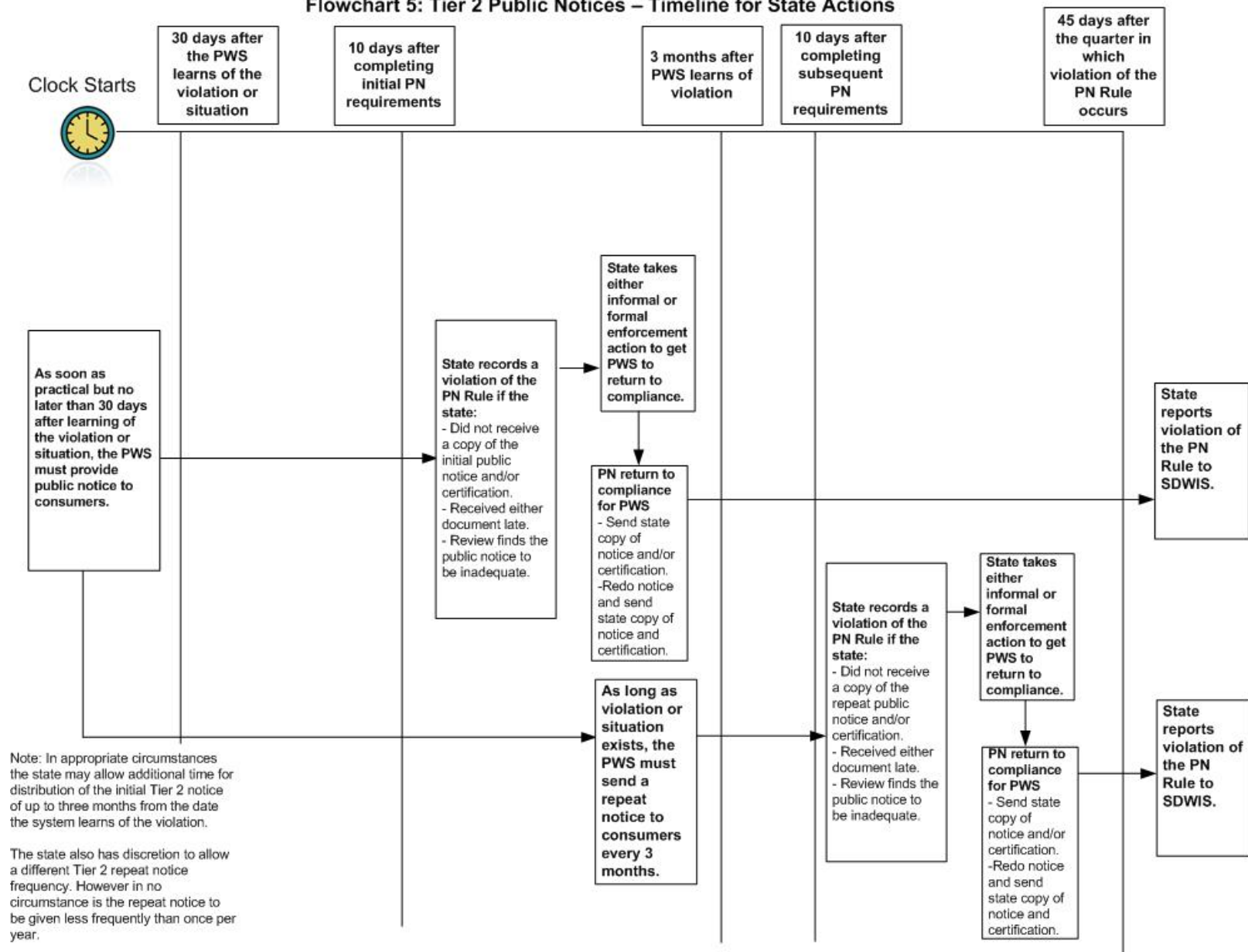
- If the system did not prepare and distribute the public notice in accordance with the Rule, the system has subsequently prepared and distributed the notice, as well as provided a copy of the notice and a certification to the state.
- If the system did not submit either a copy of the notice or the certification by the required deadline, the system has subsequently sent the state the required documents.
- If the system prepared an inadequate notice, the system has subsequently prepared a notice that addresses all deficiencies identified by the state, delivered it to the state with a certification, and distributed it to persons served in accordance with the Rule.

Return to compliance with the PN Rule does not relieve the PWS from liability for public notice or NPDWR violations.

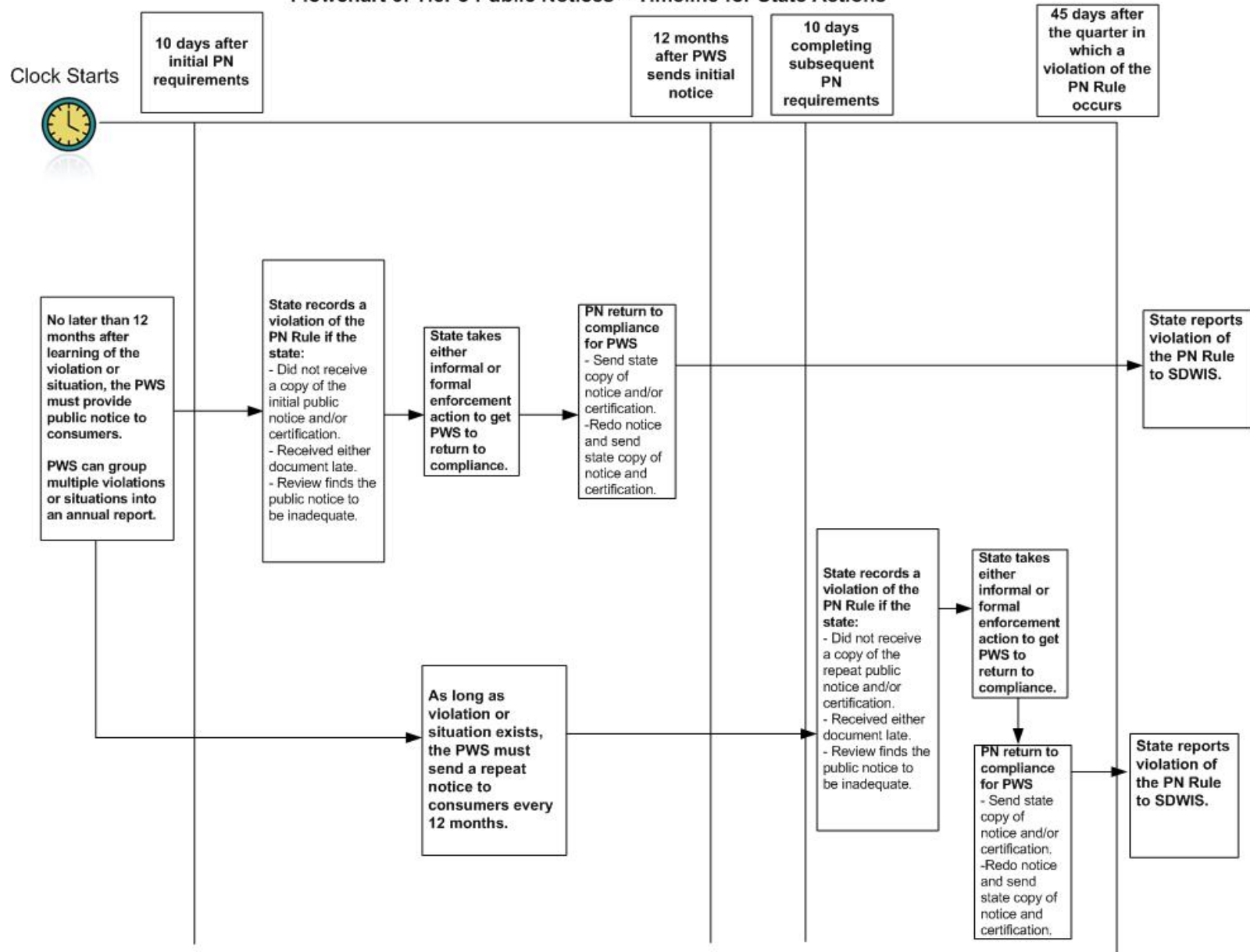
Flowchart 4: Tier 1 Public Notices – Timeline for State Actions



Flowchart 5: Tier 2 Public Notices – Timeline for State Actions



Flowchart 6: Tier 3 Public Notices – Timeline for State Actions



## 5.2 SDWIS Reporting and EPA Follow-up

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The state and EPA compliance monitoring and tracking systems help the states and EPA to identify, address, and ensure the correction of violations of the PN Rule. Under the PN Rule, states must maintain copies of public notices and records of PN violations for 3 years [40 CFR 142.14(f)]. States must also report to EPA's SDWIS/FED database system, on a quarterly basis, information about PN violations in the state during the previous quarter and new enforcement actions taken by the state during the previous quarter against PWSs for PN violations.

In order to help states and EPA to track violations of the PN Rule and to ensure that those violations are included in enforcement actions for the underlying SDWA violations or otherwise, SDWIS/FED has a mechanism to link the record for the public notification violation to the record for the underlying NPDWR violation. The underlying NPDWR violation drives the severity of the public health risk and is the basis for the new requirement to link the PN violation to the related NPDWR violation.

EPA expects that violations of PN requirements will be included as part of enforcement action for the underlying NPDWR violation. EPA also anticipates there will be enforcement of public notice requirements independent from enforcement of underlying violations and for situations where there is no underlying violation.

When the state records a PN violation in its database, the state should also report the PN violation to SDWIS/FED. Under the revised PN Rule, states will have to report the following information to SDWIS/FED:

- 1) Whether there is a PN violation for the public notice (initial or repeat notice, certification, etc.).
- 2) Date of the PN violation.
- 3) Link to the underlying NPDWR violation.
- 4) When the system has returned to compliance for the PN violation.
- 5) If the state brought formal enforcement action, the type of action, the date it was initiated, and the date the violation was resolved.

The PN Rule requires states to report the information specified above to SDWIS/FED within 45 days after the quarter in which the PN violation occurred, or in which the system returned to compliance.

EPA will use this information on violations of the PN Rule to track PWS compliance with the PN Rule and to review the adequacy of state implementation, compliance monitoring and enforcement of the PN requirements. Based upon a review of this information, EPA may provide compliance assistance suggestions and additional guidance to the state or directly to the PWS. When appropriate, EPA may also decide to pursue federal enforcement. Table 5-1 summarizes the SDWIS reporting requirements for the PN Rule.

**Table 5-1. Federal Reporting for the PN Rule**

<b>Violation Code*</b>	<b>Rule Code</b>	<b>PN Section Reference</b>	<b>Description</b>
75	7500	40 CFR 141.201 40 CFR 141.211	<b>PN Violation for a NPDWR Violation</b> (e.g., failure to notify public via initial or repeat notice, failure to provide required documents [initial or repeat notice or certification] to state)
76	7500	40 CFR 141.202 40 CFR 141.203 40 CFR 141.204 40 CFR 141.207 40 CFR 141.208 40 CFR 141.209	<b>Other Potential Health Risk Situations/Violations</b> (i.e., for those situations where there is no underlying NPDWR violation such as waterborne disease outbreak/other waterborne emergency; variance or exemption; availability of unregulated contaminant monitoring data; fluoride SMCL exceedance; and nitrate exceedances above the MCL by NCWS, where granted permission by the state)

\* States must report only when violations occur.

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# **Appendix A**

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## **Primacy Revision Crosswalk**

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SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>PART 141- NATIONAL PRIMARY DRINKING WATER REGULATIONS</b>			
<b>SUBPART B—MAXIMUM CONTAMINANT LEVELS</b>			
<b>§ 141.11 MAXIMUM CONTAMINANT LEVELS FOR INORGANIC CHEMICALS.</b>			
The non-community water system is meeting the public notification requirements under §141.209, including continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure;	§ 141.11(d)(2)		
<b>SUBPART C—MONITORING AND ANALYTICAL REQUIREMENTS</b>			
<b>§ 141.23 INORGANIC CHEMICAL SAMPLING AND ANALYTICAL REQUIREMENTS.</b>			
Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement must immediately notify persons served by the public water system in accordance with §141.202 and meet other Tier 1 public notification requirements under Subpart Q of this part. Systems exercising this option must take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.	§ 141.23(f)(2)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>SUBPART D—REPORTING AND RECORDKEEPING</b>			
<b>§ 141.31 REPORTING REQUIREMENTS.</b>			
The public water system, within 10 days of completing the public notification requirements under Subpart Q of this part for the initial public notice and any repeat notices, must submit to the primacy agency a certification that it has fully complied with the public notification regulations. The public water system must include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.	§ 141.31(d)		
<b>§ 141.33 RECORD MAINTENANCE.</b>			
Copies of public notices issued pursuant to Subpart Q of this part and certifications made to the primacy agency pursuant to §141.31 must be kept for three years after issuance.	§ 141.33(e)		
<b>SUBPART H—FILTRATION AND DISINFECTION</b>			
<b>§ 141.75 REPORTING AND RECORDKEEPING REQUIREMENTS.</b>			
If at any time the turbidity exceeds 5 NTU, the system must consult with the primacy agency as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under §141.203(b)(3).	§ 141.75(a)(5)(ii)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
If at any time the turbidity exceeds 5 NTU, the system must consult with the primacy agency as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under §141.203(b)(3).	§ 141.75(b)(3)(ii)		
<b>SUBPART O—CONSUMER CONFIDENCE REPORTS</b>			
<b>§ 141.153 CONTENT OF THE REPORTS.</b>			
A report that contains data on contaminants that EPA regulates using any of the following terms must include the applicable definitions:	§ 141.153(c)(3)		
<i>Maximum residual disinfectant level goal or MRDLG:</i> The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.	§ 141.153(c)(iii)		
<i>Maximum residual disinfectant level or MRDL:</i> The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.	§ 141.153(c)(iv)		
<i>Information on detected contaminants:</i> This sub-section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except <i>Cryptosporidium</i> ), it applies to; contaminants subject to a MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants).	§ 141.153(d)(1)(i)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in appendix A to this subpart that is most applicable to the system.	§ 141.153(d)(4)(ix)		
The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques, and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of Appendix A to this subpart.	§ 141.153(d)(6)		
Lead and copper control requirements prescribed by subpart I of this part. For systems that fail to take one or more actions prescribed by §§141.80(d), 141.81, 141.82, 141.83 or 141.84, the report must include the applicable language of Appendix A to this subpart for lead, copper, or both.	§ 141.153(f)(3)		
Treatment techniques for Acrylamide and Epichlorohydrin prescribed by subpart K of this part. For systems that violate the requirements of subpart K of this part, the report must include the relevant language from Appendix A to this subpart.	§ 141.153(f)(4)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>§ 141.154 REQUIRED ADDITIONAL HEALTH INFORMATION.</b>			
Community water systems that detect TTHM above 0.080 mg/l, but below the MCL in §141.12, as an annual average, monitored and calculated under the provisions of §141.30, must include health effects language for TTHMs prescribed by Appendix A.	§ 141.154(e)		
<b>§ 141.155 REPORT DELIVERY AND RECORDKEEPING.</b>			
Any system subject to this subpart must retain copies of its Consumer Confidence Report for no less than 3 years.	§ 141.155(h)		
<b>SUBPART Q – PUBLIC NOTIFICATION OF DRINKING WATER REGULATIONS</b>			
<b>§ 141.201 GENERAL PUBLIC NOTIFICATION REQUIREMENTS.</b>			
Public water systems in States with primacy for the public water system supervision (PWSS) program must comply with the requirements in this subpart no later than May 6, 2002 or on the date the State-adopted rule becomes effective, whichever comes first. Public water systems in jurisdictions where EPA directly implements the PWSS program must comply with the requirements in this subpart on October 31, 2000. Prior to these dates, public water systems must continue to comply with the public notice requirements in §141.32 of this part. The term “primacy agency” is used in this subpart to refer to either EPA or the State or the Tribe in cases where EPA, the State, or the Tribe exercises primary enforcement responsibility for this subpart.	§ 141.201		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<p>Who must give public notice? Each owner or operator of a public water system (community water systems, non-transient non-community water systems, and transient non-community water systems) must give notice for all violations of national primary drinking water regulations (NPDWR) and for other situations, as listed in Table 1. The term “NPDWR violations” is used in this subpart to include violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in this part 141. Appendix A to this subpart identifies the tier assignment for each specific violation or situation requiring a public notice.</p>	§ 141.201(a)		



SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>TABLE 1 TO §141.201—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A PUBLIC NOTICE</b>			
(1) NPDWR violations:			
(i) Failure to comply with an applicable maximum contaminant level (MCL) or maximum residual disinfectant level (MRDL).			
(ii) Failure to comply with a prescribed treatment technique (TT).			
(iii) Failure to perform water quality monitoring, as required by the drinking water regulations.			
(iv) Failure to comply with testing procedures as prescribed by a drinking water regulation.			
2) Variance and exemptions under sections 1415 and 1416 of SDWA:			
(i) Operation under a variance or an exemption.			
(ii) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.			
3) Special public notices:			
(i) Occurrence of a waterborne disease outbreak or other waterborne emergency.			
(ii) Exceedance of the nitrate MCL by non-community water systems (NCWS), where granted permission by the primacy agency under 141.11(d) of this part.			
(iii) Exceedance of the secondary maximum contaminant level (SMCL) for fluoride.			
(iv) Availability of unregulated contaminant monitoring data.			
(v) Other violations and situations determined by the primacy agency to require a public notice under this subpart, not already listed in Appendix A.			
What type of public notice is required for each violation or situation? Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation listed in Table 1 of this section are determined by the tier to which it is assigned. Table 2 of this section provides the definition of each tier. Appendix A of this part identifies the tier assignment for each specific violation or situation.	§ 141.201(b)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>TABLE 2 TO §141.201—DEFINITION OF PUBLIC NOTICE TIERS</b>			
(1) <i>Tier 1 public notice</i> —required for NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.			
(2) <i>Tier 2 public notice</i> —required for all other NPDWR violations and situations with potential to have serious adverse effects on human health.			
(3) <i>Tier 3 public notice</i> —required for all other NPDWR violations and situations not included in Tier 1 and Tier 2.			
<p><i>Who must be notified?</i></p> <p>Each public water system must provide public notice to persons served by the water system, in accordance with this subpart. Public water systems that sell or otherwise provide drinking water to other public water systems (<i>i.e.</i> , to consecutive systems) are required to give public notice to the owner or operator of the consecutive system; the consecutive system is responsible for providing public notice to the persons it serves.</p>	§ 141.201(c)(1)		
<p>If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the primacy agency may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission by the primacy agency for limiting distribution of the notice must be granted in writing.</p>	§ 141.201(2)		
<p>A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under §141.31(d).</p>	§ 141.201(3)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
§ 141.202 <i>TIER 1 PUBLIC NOTICE</i> —FORM, MANNER, AND FREQUENCY OF NOTICE.			
<i>Which violations or situations require a Tier 1 public notice?</i> Table 1 of this section lists the violation categories and other situations requiring a Tier 1 public notice. Appendix A to this subpart identifies the tier assignment for each specific violation or situation.	§ 141.202(a)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>TABLE 1 TO §141.202—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 1 PUBLIC NOTICE</b>			
(1) Violation of the MCL for total coliforms when fecal coliform or E. coli are present in the water distribution system (as specified in §141.63(b)), or when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform (as specified in §141.21(e));			
(2) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in §141.62, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in §141.23(f)(2);			
(3) Exceedance of the nitrate MCL by non-community water systems, where permitted to exceed the MCL by the primacy agency under §141.11(d), as required under §141.209;			
(4) Violation of the MRDL for chlorine dioxide, as defined in §141.65(a), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system, as specified in §141.133(c)(2)(i);			
(5) Violation of the turbidity MCL under §141.13(b), where the primacy agency determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;			
(6) Violation of the Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR) or Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit (as identified in Appendix A), where the primacy agency determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;			
(7) Occurrence of a waterborne disease outbreak, as defined in §141.2, or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);			
(8) Detection of <i>E. coli</i> , enterococci, or coliphage in source water samples as specified in §141.402(a) and §141.402(b); and,			
(9) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the primacy agency either in its regulations or on a case-by-case basis.			

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>When is the Tier 1 public notice to be provided?</i> What additional steps are required? Public water systems must:	§ 141.202(b)		
Provide a public notice as soon as practical but no later than 24 hours after the system learns of the violation;	§ 141.202(b)(1)		
Initiate consultation with the primacy agency as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and	§ 141.202(b)(2)		
Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the primacy agency. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.	§ 141.202(b)(3)		
<i>What is the form and manner of the public notice?</i> Public water systems must provide the notice within 24 hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, water systems are to use, at a minimum, one or more of the following forms of delivery:	§ 141.202(c)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Appropriate broadcast media (such as radio and television);	§ 141.202(c)(1)		
Posting of the notice in conspicuous locations throughout the area served by the water system;	§ 141.202(c)(2)		
Hand delivery of the notice to persons served by the water system; or	§ 141.202(c)(3)		
Another delivery method approved in writing by the primacy agency.	§ 141.202(c)(4)		
<b>§ 141.203 TIER 2 PUBLIC NOTICE —FORM, MANNER, AND FREQUENCY OF NOTICE.</b>			
<i>Which violations or situations require a Tier 2 public notice?</i> Table 1 of this section lists the violation categories and other situations requiring a Tier 2 public notice. Appendix A to this subpart identifies the tier assignment for each specific violation or situation.	§ 141.203(a)		
<b>TABLE 1 TO §141.203—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 2 PUBLIC NOTICE</b>			
(1) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under §141.202(a) or where the primacy agency determines that a Tier 1 notice is required;			
(2) Violations of the monitoring and testing procedure requirements, where the primacy agency determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and			
(3) Failure to comply with the terms and conditions of any variance or exemption in place.			
(4) Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a State-approved combination of 4-log virus inactivation and removal) before or at the first customer under §141.403(a).			

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>When is the Tier 2 public notice to be provided?</i>	§ 141.203(b)		
Public water systems must provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The primacy agency may, in appropriate circumstances, allow additional time for the initial notice of up to three months from the date the system learns of the violation. It is not appropriate for the primacy agency to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the primacy agency must be in writing.	§ 141.203(b)(1)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
The public water system must repeat the notice every three months as long as the violation or situation persists, unless the primacy agency determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the primacy agency to allow less frequent repeat notice for an MCL violation under the Total Coliform Rule or a treatment technique violation under the Surface Water Treatment Rule or Interim Enhanced Surface Water Treatment Rule. It is also not appropriate for the primacy agency to allow through its rules or policies across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. Primacy agency determinations allowing repeat notices to be given less frequently than once every three months must be in writing.	§ 141.203(b)(2)		
For the turbidity violations specified in this paragraph, public water systems must consult with the primacy agency as soon as practical but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 public notice under §141.202(a) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours ( <i>i.e.</i> , no later than 48 hours after the system learns of the violation), following the requirements under §141.202(b) and (c). Consultation with the primacy agency is required for:	§ 141.203(b)(3)		
Violation of the turbidity MCL under §141.13(b); or	§ 141.203(b)(3)(i)		



SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Violation of the SWTR, IESWTR or LT1ESWTR treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit.	§ 141.203(b)(3)(ii)		
<i>What is the form and manner of the Tier 2 public notice?</i> Public water systems must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:	§ 141.203(c)		
Unless directed otherwise by the primacy agency in writing, community water systems must provide notice by:	§ 141.203(c)(1)		
Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and	§ 141.203(c)(1)(i)		
Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (c)(1)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the system or on the Internet; or delivery to community organizations.	§ 141.203(c)(1)(ii)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Unless directed otherwise by the primacy agency in writing, non-community water systems must provide notice by:	§ 141.203(c)(2)		
Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and	§ 141.203(c)(2)(i)		
Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in paragraph (c)(2)(i) of this section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include: Publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).	§ 141.203(c)(2)(ii)		
<b>§ 141.204 TIER 3 PUBLIC NOTICE —FORM, MANNER, AND FREQUENCY OF NOTICE.</b>			
<i>Which violations or situations require a Tier 3 public notice?</i> Table 1 of this section lists the violation categories and other situations requiring a Tier 3 public notice. Appendix A to this subpart identifies the tier assignment for each specific violation or situation.	§ 141.204(a)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>TABLE 1 TO §141.204—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 3 PUBLIC NOTICE</b>			
(1) Monitoring violations under 40 CFR part 141, except where a Tier 1 notice is required under §141.202(a) or where the primacy agency determines that a Tier 2 notice is required;			
(2) Failure to comply with a testing procedure established in 40 CFR part 141, except where a Tier 1 notice is required under §141.202(a) or where the primacy agency determines that a Tier 2 notice is required;			
(3) Operation under a variance granted under Section 1415 or an exemption granted under Section 1416 of the Safe Drinking Water Act;			
(4) Availability of unregulated contaminant monitoring results, as required under §141.207; and			
(5) Exceedance of the fluoride secondary maximum contaminant level (SMCL), as required under §141.208.			
<i>When is the Tier 3 public notice to be provided?</i>	§ 141.204(b)		
Public water systems must provide the public notice not later than one year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the public water system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).	§ 141.204(b)(1)		
Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of paragraph (b)(1) of this section are met.	§ 141.204(b)(2)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>What is the form and manner of the Tier 3 public notice?</i> Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:	§ 141.204(c)		
Unless directed otherwise by the primacy agency in writing, community water systems must provide notice by:	§ 141.204(c)(1)		
Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and	§ 141.204(c)(1)(i)		
Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (c)(1)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.	§ 141.204(c)(1)(ii)		
Unless directed otherwise by the primacy agency in writing, non-community water systems must provide notice by:	§ 141.204(c)(2)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and	§ 141.204(c)(2)(i)		
Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice required in paragraph (c)(2)(i) of this section. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: Publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).	§ 141.204(c)(2)(ii)		
<i>In what situations may the Consumer Confidence Report be used to meet the Tier 3 public notice requirements?</i> For community water systems, the Consumer Confidence Report (CCR) required under Subpart O of this part may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as:	§ 141.204(d)		
The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under §141.204(b);	§ 141.204(d)(1)		
The Tier 3 notice contained in the CCR follows the content requirements under §141.205; and	§ 141.204(d)(2)		
The CCR is distributed following the delivery requirements under §141.204(c).	§ 141.204(d)(3)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>§ 141.205 CONTENT OF THE PUBLIC NOTICE.</b>			
<i>What elements must be included in the public notice for violations of National Primary Drinking Water Regulations (NPDWR) or other situations requiring a public notice? When a public water system violates a NPDWR or has a situation requiring public notification, each public notice must include the following elements:</i>	§ 141.205(a)		
A description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s);	§ 141.205(a)(1)		
When the violation or situation occurred;	§ 141.205(a)(2)		
Any potential adverse health effects from the violation or situation, including the standard language under paragraph (d)(1) or (d)(2) of this section, whichever is applicable;	§ 141.205(a)(3)		
The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;	§ 141.205(a)(4)		
Whether alternative water supplies should be used;	§ 141.205(a)(5)		
What actions consumers should take, including when they should seek medical help, if known;	§ 141.205(a)(6)		
What the system is doing to correct the violation or situation;	§ 141.205(a)(7)		
When the water system expects to return to compliance or resolve the situation;	§ 141.205(a)(8)		
The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and	§ 141.205(a)(9)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (d)(3) of this section, where applicable.	§ 141.205(a)(10)		
<i>What elements must be included in the public notice for public water systems operating under a variance or exemption?</i>	§ 141.205(b)		
If a public water system has been granted a variance or an exemption, the public notice must contain:	§ 141.205(b)(1)		
An explanation of the reasons for the variance or exemption;	§ 141.205(b)(1)(i)		
The date on which the variance or exemption was issued;	§ 141.205(b)(1)(ii)		
A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and	§ 141.205(b)(1)(iii)		
A notice of any opportunity for public input in the review of the variance or exemption.	§ 141.205(b)(1)(iv)		
If a public water system violates the conditions of a variance or exemption, the public notice must contain the ten elements listed in paragraph (a) of this section.	§ 141.205(b)(2)		
<i>How is the public notice to be presented?</i>	§ 141.205(c)		
Each public notice required by this section:	§ 141.205(c)(1)		
Must be displayed in a conspicuous way when printed or posted;	§ 141.205(c)(1)(i)		
Must not contain overly technical language or very small print;	§ 141.205(c)(1)(ii)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Must not be formatted in a way that defeats the purpose of the notice;	§ 141.205(c)(1)(iii)		
Must not contain language which nullifies the purpose of the notice.	§ 141.205(c)(1)(iv)		
Each public notice required by this section must comply with multilingual requirements, as follows:	§ 141.205(c)(2)		
For public water systems serving a large proportion of non-English speaking consumers, as determined by the primacy agency, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.	§ 141.205(c)(2)(i)		
In cases where the primacy agency has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information as in paragraph (c)(2)(i) of this section, where appropriate to reach a large proportion of non-English speaking persons served by the water system.	§ 141.205(c)(2)(ii)		
<i>What standard language must public water systems include in their public notice?</i> Public water systems are required to include the following standard language in their public notice:	§ 141.205(d)		



SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
Standard health effects language for MCL or MRDL violations, treatment technique violations, and violations of the condition of a variance or exemption. Public water systems must include in each public notice the health effects language specified in Appendix B to this subpart corresponding to each MCL, MRDL, and treatment technique violation listed in Appendix A to this subpart, and for each violation of a condition of a variance or exemption.	§ 141.205(d)(1)		
<p>Standard language for monitoring and testing procedure violations. Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations listed in Appendix A to this subpart:</p> <p>We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [compliance period], we “did not monitor or test” or “did not complete all monitoring or testing” for [contaminant(s)], and therefore cannot be sure of the quality of your drinking water during that time.</p>	§ 141.205(d)(2)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<p>Standard language to encourage the distribution of the public notice to all persons served. Public water systems must include in their notice the following language (where applicable):</p> <p>Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.</p>	§ 141.205(d)(3)		
<b>§ 141.206 NOTICE TO NEW BILLING UNITS OR NEW CUSTOMERS.</b>			
<p><i>What is the requirement for community water systems?</i> Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.</p>	§ 141.206(a)		
<p><i>What is the requirement for non-community water systems?</i> Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.</p>	§ 141.206(b)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>§ 141.207 SPECIAL NOTICE OF THE AVAILABILITY OF UNREGULATED CONTAMINANT MONITORING RESULTS.</b>			
<i>When is the special notice to be given?</i> The owner or operator of a community water system or non-transient, non-community water system required to monitor under §141.40 must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.	§ 141.207(a)		
<i>What is the form and manner of the special notice?</i> The form and manner of the public notice must follow the requirements for a Tier 3 public notice prescribed in §§141.204(c), (d)(1), and (d)(3). The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.	§ 141.207(b)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>§ 141.208 SPECIAL NOTICE FOR EXCEEDANCE OF THE SMCL FOR FLUORIDE.</b>			
<i>When is the special notice to be given?</i> Community water systems that exceed the fluoride secondary maximum contaminant level (SMCL) of 2 mg/l as specified in §143.3 (determined by the last single sample taken in accordance with §141.23), but do not exceed the maximum contaminant level (MCL) of 4 mg/l for fluoride (as specified in §141.62), must provide the public notice in paragraph (c) of this section to persons served. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the State public health officer. The public water system must repeat the notice at least annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days (even if the exceedance is eliminated). On a case-by-case basis, the primacy agency may require an initial notice sooner than 12 months and repeat notices more frequently than annually.	§ 141.208(a)		
<i>What is the form and manner of the special notice?</i> The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice in §141.204(c) and (d)(1) and (d)(3).	§ 141.208(b)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<p><i>What mandatory language must be contained in the special notice?</i> The notice must contain the following language, including the language necessary to fill in the blanks:</p> <p>This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/l) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system [ <i>name</i> ] has a fluoride concentration of [ <i>insert value</i> ] mg/l. Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water. Drinking water containing more than 4 mg/L of fluoride (the U.S. Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.</p>	§ 141.208(c)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
For more information, please call [name of water system contact] of [name of community water system] at [phone number]. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1–877–8–NSF–HELP.”			
<b>§ 141.209 SPECIAL NOTICE FOR NITRATE EXCEEDANCES ABOVE MCL BY NON-COMMUNITY WATER SYSTEMS (NCWS), WHERE GRANTED PERMISSION BY THE PRIMACY AGENCY UNDER §141.11(D).</b>			
<i>When is the special notice to be given?</i> The owner or operator of a non-community water system granted permission by the primacy agency under §141.11(d) to exceed the nitrate MCL must provide notice to persons served according to the requirements for a Tier 1 notice under §141.202(a) and (b).	§ 141.209(a)		
<i>What is the form and manner of the special notice?</i> Non-community water systems granted permission by the primacy agency to exceed the nitrate MCL under §141.11(d) must provide continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under §141.202(c) and the content requirements under §141.205.	§ 141.209(b)		
<b>§ 141.210 NOTICE BY PRIMACY AGENCY ON BEHALF OF THE PUBLIC WATER SYSTEM.</b>			
<i>May the primacy agency give the notice on behalf of the public water system?</i> The primacy agency may give the notice required by this subpart on behalf of the owner and operator of the public water system if the primacy agency complies with the requirements of this subpart.	§ 141.210(a)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>What is the responsibility of the public water system when notice is given by the primacy agency?</i> The owner or operator of the public water system remains responsible for ensuring that the requirements of this subpart are met.	§ 141.210(b)		
<b>§ 141.211 SPECIAL NOTICE FOR REPEATED FAILURE TO CONDUCT MONITORING OF THE SOURCE WATER FOR CRYPTOSPORIDIUM AND FOR FAILURE TO DETERMINE BIN CLASSIFICATION OR MEAN CRYPTOSPORIDIUM LEVEL.</b>			
<i>When is the special notice for repeated failure to monitor to be given?</i> The owner or operator of a community or non-community water system that is required to monitor source water under §141.701 must notify persons served by the water system that monitoring has not been completed as specified no later than 30 days after the system has failed to collect any 3 months of monitoring as specified in §141.701(c). The notice must be repeated as specified in §141.203(b).	§ 141.211(a)		
<i>When is the special notice for failure to determine bin classification or mean Cryptosporidium level to be given?</i> The owner or operator of a community or non-community water system that is required to determine a bin classification under §141.710, or to determine mean <i>Cryptosporidium</i> level under §141.712, must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed report the determination as specified in §141.710(e) or §141.712(a), respectively. The notice must be repeated as specified in §141.203(b). The notice is not required if the system is complying with a State-approved schedule to address the violation.	§ 141.211(b)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>What is the form and manner of the special notice?</i> The form and manner of the public notice must follow the requirements for a Tier 2 public notice prescribed in §141.203(c). The public notice must be presented as required in §141.205(c).	§ 141.211(c)		
<i>What mandatory language must be contained in the special notice?</i> The notice must contain the following language, including the language necessary to fill in the blanks.	§ 141.211(d)		
<p>The special notice for repeated failure to conduct monitoring must contain the following language:</p> <p>We are required to monitor the source of your drinking water for <i>Cryptosporidium</i>. Results of the monitoring are to be used to determine whether water treatment at the (treatment plant name) is sufficient to adequately remove <i>Cryptosporidium</i> from your drinking water. We are required to complete this monitoring and make this determination by (required bin determination date). We “did not monitor or test” or “did not complete all monitoring or testing” on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate <i>Cryptosporidium</i> removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).</p>	§ 141.211(d)(1)		



SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<p>The special notice for failure to determine bin classification or mean <i>Cryptosporidium</i> level must contain the following language:</p> <p>We are required to monitor the source of your drinking water for <i>Cryptosporidium</i> in order to determine by (date) whether water treatment at the (treatment plant name) is sufficient to adequately remove <i>Cryptosporidium</i> from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).</p>	§ 141.211(d)(2)		
Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.	§ 141.211(d)(3)		
Appendix A to Subpart Q	Appendix A to Subpart Q		
Appendix B to Subpart Q	Appendix B to Subpart Q		
Appendix C to Subpart Q	Appendix C to Subpart Q		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<b>PART 142-NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION</b>			
<b>SUBPART B-PRIMARY ENFORCEMENT RESPONSIBILITY</b>			
<b>§ 142.10 REQUIREMENTS FOR A DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY.</b>			
Authority to require public water systems to give public notice that is no less stringent than the EPA requirements in Subpart Q of Part 141 of this chapter and §142.16(a).	§ 142.10(b)(6)(v)		
Authority to assess civil or criminal penalties for violation of the State's primary drinking water regulations and public notification requirements, including the authority to assess daily penalties or multiple penalties when a violation continues;	§ 142.10(b)(6)(vi)		
<b>§ 142.14 RECORDS KEPT BY STATES.</b>			
Public notification records under Subpart Q of Part 141 of this chapter received from public water systems (including certifications of compliance and copies of public notices) and any state determinations establishing alternative public notification requirements for the water systems must be retained for three years.	§ 142.14(f)		
<b>§ 142.15 REPORTS BY STATES.</b>			
Each State which has primary enforcement responsibility shall submit quarterly reports to the Administrator on a schedule and in a format prescribed by the Administrator, consisting of the following information:	§ 142.15(a)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
(1) New violations by public water systems in the State during the previous quarter of State regulations adopted to incorporate the requirements of national primary drinking water regulations, including violations of the public notification requirements under Subpart Q of Part 141 of this chapter.	§ 142.15(a)(1)		
<b>§ 142.16 SPECIAL PRIMACY REQUIREMENTS.</b>			
<i>State public notification requirements</i>	§ 142.16(a)		
Each State that has primary enforcement authority under this part must submit complete and final requests for approval of program revisions to adopt the requirements of Subpart Q of Part 141 of this chapter, using the procedures in §142.12(b) through (d). At its option, a State may, by rule, and after notice and comment, establish alternative public notification requirements with respect to the form and content of the public notice required under Subpart Q of Part 141 of this chapter. The alternative requirements must provide the same type and amount of information required under Subpart Q and must meet the primacy requirements under §142.10.	§ 142.16(a)(1)		
As part of the revised primacy program, a State must also establish enforceable requirements and procedures when the State adds to or changes the requirements under:	§ 142.16(a)(2)		
<i>Table 1 to 40 CFR 141.201(a)(Item (3)(v))</i> —To require public water systems to give a public notice for violations or situations other than those listed in Appendix A of Subpart Q of Part 141 of this chapter;	§ 142.16(a)(2)(i)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>40 CFR 141.201(c)(2)</i> —To allow public water systems, under the specific circumstances listed in §141.201(c)(2), to limit the distribution of the public notice to persons served by the portion of the distribution system that is out of compliance;	§ 142.16(a)(2)(ii)		
<i>Table 1 of 40 CFR 141.202(a) (Items (5), (6), and (9))</i> —To require public water systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations listed in Appendix A of Subpart Q of Part 141 of this chapter;	§ 142.16(a)(2)(iii)		
<i>40 CFR 141.202(b)(3)</i> —To require public water systems to comply with additional Tier 1 public notification requirements set by the State subsequent to the initial 24-hour Tier 1 notice, as a result of their consultation with the State required under §§141.202(b)(2);	§ 142.16(a)(2)(iv)		
<i>40 CFR 141.202(c), 141.203(c) and 141.204(c)</i> —To require a different form and manner of delivery for Tier 1, 2 and 3 public notices.	§ 142.16(a)(2)(v)		
<i>Table 1 to 40 CFR 141.203(a) (Item (2))</i> —To require the public water systems to provide a Tier 2 public notice (rather than Tier (3)) for monitoring or testing procedure violations specified by the State;	§ 142.16(a)(2)(vi)		
<i>40 CFR 141.203(b)(1)</i> —To grant public water systems an extension up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule);	§ 142.16(a)(2)(vii)		

SUMMARY OF FEDERAL REQUIREMENT	FEDERAL CITATION 40 CFR	STATE CITATION (DOCUMENT TITLE, PAGE NUMBER, SECTION/PARAGRAPH)	DIFFERENT FROM FED. REQUIREMENT? (EXPLAIN ON SEPARATE SHEET)
<i>40 CFR 141.203(b)(2)</i> —To grant a different repeat notice frequency for the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule), but no less frequently than once per year;	§ 142.16(a)(2)(viii)		
<i>40 CFR 141.203(b)(3)</i> —To respond within 24 hours to a request for consultation by the public water system to determine whether a Tier 1 (rather than a Tier 2) notice is required for a turbidity MCL violation under §141.13(b) or a SWTR/IESWTR TT violation due to a single exceedance of the maximum allowable turbidity limit;	§ 142.16(a)(2)(ix)		
<i>40 CFR 141.205(c)</i> —To determine the specific multilingual requirement for a public water system, including defining “large proportion of non-English-speaking consumers.”	§ 142.16(a)(2)(x)		

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# **Appendix B**

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## **Rule Requirements**

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than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system must arrange for the conduct of a comprehensive performance evaluation by the State or a third party approved by the State no later than 30 days following the exceedance and have the evaluation completed and submitted to the State no later than 90 days following the exceedance.

(c) *Additional reporting requirements.*

(1) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the State as soon as possible, but no later than the end of the next business day.

(2) If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the State under §141.173(b) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system must inform the State as soon as possible, but no later than the end of the next business day.

[63 FR 69516, Dec. 16, 1998, as amended at 66 FR 3779, Jan. 16, 2001]

### Subpart Q—Public Notification of Drinking Water Violations

SOURCE: 65 FR 26035, May 4, 2000, unless otherwise noted.

#### § 141.201 General public notification requirements.

Public water systems in States with primacy for the public water system supervision (PWSS) program must comply with the requirements in this subpart no later than May 6, 2002 or on the date the State-adopted rule becomes effective, whichever comes first. Public water systems in jurisdictions where EPA directly implements the PWSS program must comply with the requirements in this subpart on October 31, 2000. Prior to these dates, public water systems must continue to com-

ply with the public notice requirements in §141.32 of this part. The term “primacy agency” is used in this subpart to refer to either EPA or the State or the Tribe in cases where EPA, the State, or the Tribe exercises primary enforcement responsibility for this subpart.

(a) *Who must give public notice?* Each owner or operator of a public water system (community water systems, non-transient non-community water systems, and transient non-community water systems) must give notice for all violations of national primary drinking water regulations (NPDWR) and for other situations, as listed in Table 1. The term “NPDWR violations” is used in this subpart to include violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in this part 141. Appendix A to this subpart identifies the tier assignment for each specific violation or situation requiring a public notice.

TABLE 1 TO § 141.201—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A PUBLIC NOTICE

- (1) NPDWR violations:
  - (i) Failure to comply with an applicable maximum contaminant level (MCL) or maximum residual disinfectant level (MRDL).
  - (ii) Failure to comply with a prescribed treatment technique (TT).
  - (iii) Failure to perform water quality monitoring, as required by the drinking water regulations.
  - (iv) Failure to comply with testing procedures as prescribed by a drinking water regulation.
- (2) Variance and exemptions under sections 1415 and 1416 of SDWA:
  - (i) Operation under a variance or an exemption.
  - (ii) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.
- (3) Special public notices:
  - (i) Occurrence of a waterborne disease outbreak or other waterborne emergency.

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TABLE 1 TO § 141.201—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A PUBLIC NOTICE—Continued

- (ii) Exceedance of the nitrate MCL by non-community water systems (NCWS), where granted permission by the primacy agency under 141.11(d) of this part.
- (iii) Exceedance of the secondary maximum contaminant level (SMCL) for fluoride.
- (iv) Availability of unregulated contaminant monitoring data.
- (v) Other violations and situations determined by the primacy agency to require a public notice under this subpart, not already listed in Appendix A.

(b) *What type of public notice is required for each violation or situation?* Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation listed in Table 1 of this section are determined by the tier to which it is assigned. Table 2 of this section provides the definition of each tier. Appendix A of this part identifies the tier assignment for each specific violation or situation.

TABLE 2 TO § 141.201—DEFINITION OF PUBLIC NOTICE TIERS

- (1) *Tier 1 public notice*—required for NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.
- (2) *Tier 2 public notice*—required for all other NPDWR violations and situations with potential to have serious adverse effects on human health.
- (3) *Tier 3 public notice*—required for all other NPDWR violations and situations not included in Tier 1 and Tier 2.

(c) *Who must be notified?*

(1) Each public water system must provide public notice to persons served by the water system, in accordance with this subpart. Public water systems that sell or otherwise provide drinking water to other public water systems (*i.e.*, to consecutive systems)

are required to give public notice to the owner or operator of the consecutive system; the consecutive system is responsible for providing public notice to the persons it serves.

(2) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the primacy agency may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission by the primacy agency for limiting distribution of the notice must be granted in writing.

(3) A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under § 141.31(d).

### § 141.202 *Tier 1 Public Notice—Form, manner, and frequency of notice.*

(a) *Which violations or situations require a Tier 1 public notice?* Table 1 of this section lists the violation categories and other situations requiring a Tier 1 public notice. Appendix A to this subpart identifies the tier assignment for each specific violation or situation.

TABLE 1 TO § 141.202—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 1 PUBLIC NOTICE

- (1) Violation of the MCL for total coliforms when fecal coliform or *E. coli* are present in the water distribution system (as specified in § 141.63(b)), or when the water system fails to test for fecal coliforms or *E. coli* when any repeat sample tests positive for coliform (as specified in § 141.21(e));
- (2) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in § 141.62, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in § 141.23(f)(2);
- (3) Exceedance of the nitrate MCL by non-community water systems, where permitted to exceed the MCL by the primacy agency under § 141.11(d), as required under § 141.209;

TABLE 1 TO § 141.202—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 1 PUBLIC NOTICE—Continued

- (4) Violation of the MRDL for chlorine dioxide, as defined in § 141.65(a), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system, as specified in § 141.133(c)(2)(i);
- (5) Violation of the turbidity MCL under § 141.13(b), where the primacy agency determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;
- (6) Violation of the Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR) or Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit (as identified in Appendix A), where the primacy agency determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;
- (7) Occurrence of a waterborne disease outbreak, as defined in § 141.2, or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);
- (8) Detection of *E. coli*, enterococci, or coliphage in source water samples as specified in § 141.402(a) and § 141.402(b);
- (9) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the primacy agency either in its regulations or on a case-by-case basis.

(b) *When is the Tier 1 public notice to be provided?* What additional steps are required? Public water systems must:

- (1) Provide a public notice as soon as practical but no later than 24 hours

after the system learns of the violation;

- (2) Initiate consultation with the primacy agency as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and

(3) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the primacy agency. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

(c) *What is the form and manner of the public notice?* Public water systems must provide the notice within 24 hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, water systems are to use, at a minimum, one or more of the following forms of delivery:

- (1) Appropriate broadcast media (such as radio and television);
- (2) Posting of the notice in conspicuous locations throughout the area served by the water system;
- (3) Hand delivery of the notice to persons served by the water system; or
- (4) Another delivery method approved in writing by the primacy agency.

[65 FR 26035, May 4, 2000, as amended at 67 FR 1836, Jan. 14, 2002; 71 FR 65652, Nov. 8, 2006]

**§ 141.203 Tier 2 Public Notice—Form, manner, and frequency of notice.**

(a) *Which violations or situations require a Tier 2 public notice?* Table 1 of this section lists the violation categories and other situations requiring a Tier 2 public notice. Appendix A to this subpart identifies the tier assignment for each specific violation or situation.

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TABLE 1 TO § 141.203—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 2 PUBLIC NOTICE

- (1) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under § 141.202(a) or where the primacy agency determines that a Tier 1 notice is required;
- (2) Violations of the monitoring and testing procedure requirements, where the primacy agency determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and
- (3) Failure to comply with the terms and conditions of any variance or exemption in place.
- (4) Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a State-approved combination of 4-log virus inactivation and removal) before or at the first customer under § 141.403(a).

(b) *When is the Tier 2 public notice to be provided?*

(1) Public water systems must provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The primacy agency may, in appropriate circumstances, allow additional time for the initial notice of up to three months from the date the system learns of the violation. It is not appropriate for the primacy agency to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the primacy agency must be in writing.

(2) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the primacy agency determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the primacy agency to allow

less frequent repeat notice for an MCL violation under the Total Coliform Rule or a treatment technique violation under the Surface Water Treatment Rule or Interim Enhanced Surface Water Treatment Rule. It is also not appropriate for the primacy agency to allow through its rules or policies across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. Primacy agency determinations allowing repeat notices to be given less frequently than once every three months must be in writing.

(3) For the turbidity violations specified in this paragraph, public water systems must consult with the primacy agency as soon as practical but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 public notice under § 141.202(a) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours (*i.e.*, no later than 48 hours after the system learns of the violation), following the requirements under § 141.202(b) and (c). Consultation with the primacy agency is required for:

(i) Violation of the turbidity MCL under § 141.13(b); or

(ii) Violation of the SWTR, IESWTR or LT1ESWTR treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit.

(c) *What is the form and manner of the Tier 2 public notice?* Public water systems must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(1) Unless directed otherwise by the primacy agency in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which

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water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (c)(1)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the system or on the Internet; or delivery to community organizations.

(2) Unless directed otherwise by the primacy agency in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in paragraph (c)(2)(i) of this section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include: Publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

[65 FR 26035, May 4, 2000, as amended at 67 FR 1836, Jan. 14, 2002; 71 FR 65652, Nov. 8, 2006]

### § 141.204 *Tier 3 Public Notice—Form, manner, and frequency of notice.*

(a) *Which violations or situations require a Tier 3 public notice?* Table 1 of this section lists the violation categories and other situations requiring a Tier 3 public notice. Appendix A to this subpart identifies the tier assign-

ment for each specific violation or situation.

TABLE 1 TO § 141.204—VIOLATION CATEGORIES AND OTHER SITUATIONS REQUIRING A TIER 3 PUBLIC NOTICE

- (1) Monitoring violations under 40 CFR part 141, except where a Tier 1 notice is required under § 141.202(a) or where the primacy agency determines that a Tier 2 notice is required;
- (2) Failure to comply with a testing procedure established in 40 CFR part 141, except where a Tier 1 notice is required under § 141.202(a) or where the primacy agency determines that a Tier 2 notice is required;
- (3) Operation under a variance granted under Section 1415 or an exemption granted under Section 1416 of the Safe Drinking Water Act;
- (4) Availability of unregulated contaminant monitoring results, as required under § 141.207; and
- (5) Exceedance of the fluoride secondary maximum contaminant level (SMCL), as required under § 141.208.

(b) *When is the Tier 3 public notice to be provided?*

(1) Public water systems must provide the public notice not later than one year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the public water system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).

(2) Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of paragraph (b)(1) of this section are met.

(c) *What is the form and manner of the Tier 3 public notice?* Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required

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time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(1) Unless directed otherwise by the primacy agency in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (c)(1)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

(2) Unless directed otherwise by the primacy agency in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice required in paragraph (c)(2)(i) of this section. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: Publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

(d) *In what situations may the Consumer Confidence Report be used to meet*

*the Tier 3 public notice requirements?* For community water systems, the Consumer Confidence Report (CCR) required under Subpart O of this part may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as:

(1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under § 141.204(b);

(2) The Tier 3 notice contained in the CCR follows the content requirements under § 141.205; and

(3) The CCR is distributed following the delivery requirements under § 141.204(c).

[65 FR 26035, May 4, 2000; 65 FR 38629, June 21, 2000]

### § 141.205 Content of the public notice.

(a) *What elements must be included in the public notice for violations of National Primary Drinking Water Regulations (NPDWR) or other situations requiring a public notice?* When a public water system violates a NPDWR or has a situation requiring public notification, each public notice must include the following elements:

(1) A description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s);

(2) When the violation or situation occurred;

(3) Any potential adverse health effects from the violation or situation, including the standard language under paragraph (d)(1) or (d)(2) of this section, whichever is applicable;

(4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(5) Whether alternative water supplies should be used;

(6) What actions consumers should take, including when they should seek medical help, if known;

(7) What the system is doing to correct the violation or situation;

(8) When the water system expects to return to compliance or resolve the situation;

(9) The name, business address, and phone number of the water system

owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(10) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (d)(3) of this section, where applicable.

(b) *What elements must be included in the public notice for public water systems operating under a variance or exemption?*

(1) If a public water system has been granted a variance or an exemption, the public notice must contain:

(i) An explanation of the reasons for the variance or exemption;

(ii) The date on which the variance or exemption was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(iv) A notice of any opportunity for public input in the review of the variance or exemption.

(2) If a public water system violates the conditions of a variance or exemption, the public notice must contain the ten elements listed in paragraph (a) of this section.

(c) *How is the public notice to be presented?*

(1) Each public notice required by this section:

(i) Must be displayed in a conspicuous way when printed or posted;

(ii) Must not contain overly technical language or very small print;

(iii) Must not be formatted in a way that defeats the purpose of the notice;

(iv) Must not contain language which nullifies the purpose of the notice.

(2) Each public notice required by this section must comply with multilingual requirements, as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the primacy agency, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the no-

tice or to request assistance in the appropriate language.

(ii) In cases where the primacy agency has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information as in paragraph (c)(2)(i) of this section, where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(d) *What standard language must public water systems include in their public notice?* Public water systems are required to include the following standard language in their public notice:

(1) Standard health effects language for MCL or MRDL violations, treatment technique violations, and violations of the condition of a variance or exemption. Public water systems must include in each public notice the health effects language specified in Appendix B to this subpart corresponding to each MCL, MRDL, and treatment technique violation listed in Appendix A to this subpart, and for each violation of a condition of a variance or exemption.

(2) Standard language for monitoring and testing procedure violations. Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations listed in Appendix A to this subpart:

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [compliance period], we “did not monitor or test” or “did not complete all monitoring or testing” for [contaminant(s)], and therefore cannot be sure of the quality of your drinking water during that time.

(3) Standard language to encourage the distribution of the public notice to all persons served. Public water systems must include in their notice the following language (where applicable):

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

**§ 141.206 Notice to new billing units or new customers.**

(a) *What is the requirement for community water systems?* Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) *What is the requirement for non-community water systems?* Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.

**§ 141.207 Special notice of the availability of unregulated contaminant monitoring results.**

(a) *When is the special notice to be given?* The owner or operator of a community water system or non-transient, non-community water system required to monitor under § 141.40 must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) *What is the form and manner of the special notice?* The form and manner of the public notice must follow the requirements for a Tier 3 public notice prescribed in §§ 141.204(c), (d)(1), and (d)(3). The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

**§ 141.208 Special notice for exceedance of the SMCL for fluoride.**

(a) *When is the special notice to be given?* Community water systems that exceed the fluoride secondary maximum contaminant level (SMCL) of 2 mg/l as specified in § 143.3 (determined by the last single sample taken in accordance with § 141.23), but do not exceed the maximum contaminant level (MCL) of 4 mg/l for fluoride (as specified in § 141.62), must provide the public notice in paragraph (c) of this section to persons served. Public notice must be provided as soon as practical but no

later than 12 months from the day the water system learns of the exceedance. A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the State public health officer. The public water system must repeat the notice at least annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days (even if the exceedance is eliminated). On a case-by-case basis, the primacy agency may require an initial notice sooner than 12 months and repeat notices more frequently than annually.

(b) *What is the form and manner of the special notice?* The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice in § 141.204(c) and (d)(1) and (d)(3).

(c) *What mandatory language must be contained in the special notice?* The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/l) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system [name] has a fluoride concentration of [insert value] mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/L of fluoride (the U.S. Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.



For more information, please call [name of water system contact] of [name of community water system] at [phone number]. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.”

**§ 141.209 Special notice for nitrate exceedances above MCL by non-community water systems (NCWS), where granted permission by the primacy agency under § 141.11(d)**

(a) *When is the special notice to be given?* The owner or operator of a non-community water system granted permission by the primacy agency under § 141.11(d) to exceed the nitrate MCL must provide notice to persons served according to the requirements for a Tier 1 notice under § 141.202(a) and (b).

(b) *What is the form and manner of the special notice?* Non-community water systems granted permission by the primacy agency to exceed the nitrate MCL under § 141.11(d) must provide continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under § 141.202(c) and the content requirements under § 141.205.

**§ 141.210 Notice by primacy agency on behalf of the public water system.**

(a) *May the primacy agency give the notice on behalf of the public water system?* The primacy agency may give the notice required by this subpart on behalf of the owner and operator of the public water system if the primacy agency complies with the requirements of this subpart.

(b) *What is the responsibility of the public water system when notice is given by the primacy agency?* The owner or operator of the public water system remains responsible for ensuring that the requirements of this subpart are met.

**§ 141.211 Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level.**

(a) *When is the special notice for repeated failure to monitor to be given?* The owner or operator of a community or non-community water system that is

required to monitor source water under § 141.701 must notify persons served by the water system that monitoring has not been completed as specified no later than 30 days after the system has failed to collect any 3 months of monitoring as specified in § 141.701(c). The notice must be repeated as specified in § 141.203(b).

(b) *When is the special notice for failure to determine bin classification or mean *Cryptosporidium* level to be given?* The owner or operator of a community or non-community water system that is required to determine a bin classification under § 141.710, or to determine mean *Cryptosporidium* level under § 141.712, must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed report the determination as specified in § 141.710(e) or § 141.712(a), respectively. The notice must be repeated as specified in § 141.203(b). The notice is not required if the system is complying with a State-approved schedule to address the violation.

(c) *What is the form and manner of the special notice?* The form and manner of the public notice must follow the requirements for a Tier 2 public notice prescribed in § 141.203(c). The public notice must be presented as required in § 141.205(c).

(d) *What mandatory language must be contained in the special notice?* The notice must contain the following language, including the language necessary to fill in the blanks.

(1) The special notice for repeated failure to conduct monitoring must contain the following language:

We are required to monitor the source of your drinking water for *Cryptosporidium*. Results of the monitoring are to be used to determine whether water treatment at the (treatment plant name) is sufficient to adequately remove *Cryptosporidium* from your drinking water. We are required to complete this monitoring and make this determination by (required bin determination date). We “did not monitor or test” or “did not complete all monitoring or testing” on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate *Cryptosporidium* removal. Missing this deadline may, in turn, jeopardize our ability to have the required

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treatment modifications, if any, completed by the deadline required, (date).

For more information, please call (name of water system contact) of (name of water system) at (phone number).

(2) The special notice for failure to determine bin classification or mean *Cryptosporidium* level must contain the following language:

We are required to monitor the source of your drinking water for *Cryptosporidium* in order to determine by (date) whether water treatment at the (treatment plant name) is sufficient to adequately remove *Cryptosporidium* from your drinking water.

We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).

(3) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

[71 FR 768, Jan. 5, 2006]

## **Appendix C**

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# **Rule Factsheets and Quick Reference Guide**

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# The Public Notification Rule: A Quick Reference Guide

## Overview of the Rule

Title	Public Notification (PN) Rule, 65 FR 25982, May 4, 2000.
Purpose	To notify the public of drinking water violations or situations that may pose a risk to public health.
General Description	The PN Rule requires all public water systems (PWSs) to notify their consumers any time a PWS violates a national primary drinking water regulation or has a situation posing a risk to public health. Notices must be provided to persons served (not just billing customers).
Utilities Covered	All PWSs.
Timing and Distribution	Notices must be sent within 24 hours, 30 days, or one year depending on the tier to which the violation is assigned. The clock for notification starts when the PWS learns of the violation.

## Tier 1 (Immediate Notice, Within 24 Hours)

Tier 1 PN is required to be issued as soon as practical but no later than 24 hours after the PWS learns of the violation or situation including:

- ▶ Distribution system sample violation when fecal coliform or *E. coli* are present; failure to test for fecal coliform or *E. coli* after initial total coliform distribution system sample tests positive.
- ▶ Nitrate, nitrite, or total nitrate and nitrite maximum contaminant level (MCL) violation; failure to take confirmation sample.
- ▶ Special notice for noncommunity water systems (NCWSs) with nitrate exceedances between 10 mg/L and 20 mg/L, where system is allowed to exceed 10 mg/L by primacy agency.
- ▶ Chlorine dioxide maximum residual disinfectant level (MRDL) violation when one or more of the samples taken in the distribution system exceeds the MRDL on the day after a chlorine dioxide measurement taken at the entrance to the distribution system exceeds the MRDL, or when required samples are not taken in the distribution system.
- ▶ Exceedance of maximum allowable turbidity level, if elevated to a Tier 1 notice by primacy agency.
- ▶ Waterborne disease outbreak or other waterborne emergency.
- ▶ Detection of *E. coli*, enterococci, or coliphage in a ground water source sample.
- ▶ Other violations or situations determined by the primacy agency.

## Tier 2 (Notice as Soon as Practical, Within 30 Days)

Tier 2 PN is required to be issued as soon as practical or within 30 days. Repeat notice every 3 months until violation or situation is resolved.

- ▶ All MCL, MRDL, and treatment technique violations, except where Tier 1 notice is required.
- ▶ Monitoring violations, if elevated to Tier 2 notice by primacy agency.
- ▶ Failure to comply with variance and exemption conditions.
- ▶ For ground water systems providing 4-log treatment and conducting Ground Water Rule (GWR) compliance monitoring, failure to maintain required treatment for more than 4 hours.
- ▶ Failure to take any required corrective action or be in compliance with a corrective action plan for a fecal indicator-positive ground water source sample.
- ▶ Failure to take any required corrective action or be in compliance with a corrective action plan for a significant deficiency under the GWR.
- ▶ Special public notice for repeated failure to conduct monitoring for *Cryptosporidium*.

**Turbidity consultation** is required when a PWS has a treatment technique violation resulting from a single exceedance of the maximum allowable turbidity limit or an MCL violation resulting from an exceedance of the 2-day turbidity limit. The PWS must consult their primacy agency within 24 hours. Primacy agencies will then determine whether a Tier 1 PN is necessary. If consultation does not occur within 24 hours, violations are automatically elevated to require Tier 1 PN.

## Tier 3 (Annual Notice)

Tier 3 PN is required to be issued within 12 months and repeated annually for unresolved violations.

- ▶ All monitoring or testing procedure violations, unless primacy agency elevates to Tier 2, including failure to conduct benchmarking and profiling (surface water systems) and failure to develop a monitoring plan (disinfecting systems).
- ▶ Operating under a variance and exemption.
- ▶ Special public notice for availability of unregulated contaminant monitoring results.
- ▶ Special public notice for fluoride secondary maximum contaminant level (SMCL) exceedance.

For additional information  
on the PN Rule

Call the Safe Drinking  
Water Hotline at 1-800-  
426-4791; visit the EPA  
Web site at [www.epa.gov/safewater/pn.html](http://www.epa.gov/safewater/pn.html); or  
contact your state or local  
primacy agency's drinking  
water representative. Log  
onto the PNWriter Web site  
to use EPA's templates at  
[www.PNWriter.com](http://www.PNWriter.com).

## Ten Required Elements of a Public Notice

Unless otherwise specified in the regulations,\* each notice must contain:

1. Description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s).
2. When the violation or situation occurred (i.e., date the sample was collected or was supposed to be collected).
3. Any potential adverse health effects from drinking the water and standard language regarding the violation or situation. (For MCL, MRDL, treatment technique violations, or violations of the conditions of a variance or exemption, use health effects language from Appendix B of the PN Rule. For monitoring and testing procedure violations, use the standard monitoring language below.)
4. The population at risk, including subpopulations that may be particularly vulnerable if exposed to the contaminant in their drinking water.
5. Whether alternate water supplies should be used.
6. Actions consumers should take, including when they should seek medical help, if known.
7. What the PWS is doing to correct the violation or situation.
8. When the PWS expects to return to compliance or resolve the situation.
9. The name, business address, and phone number or those of a designee of the PWS as a source of additional information concerning the notice.
10. A statement (see standard distribution language below) encouraging notice recipients to distribute the notice to others, where applicable.

*\* These elements do not apply to notices for fluoride SMCL exceedances, availability of unregulated contaminant monitoring data, and operation under a variance or exemption. Content requirements for these notices are specified in the PN Rule.*

### Standard Language:

**Standard Monitoring Language:** We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During [period] we [did not monitor or test/did not complete all monitoring or testing] for [contaminant(s)], and therefore cannot be sure of the quality of the drinking water during that time.

**Standard Distribution Language:** Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

## Multilingual Requirements

- ▶ Where the PWS serves a large proportion of non-English speakers, the PWS must provide information in the appropriate language(s) on the importance of the notice or on how to get assistance or a translated copy.

## Presentation and Distribution

- ▶ The Tier 1 PN must be issued via radio, TV, hand delivery, posting, or other method specified by the primacy agency to reach all persons served. PWSs must also initiate consultation with the primacy agency within 24 hours. Primacy agency may establish additional requirements during consultation.
- ▶ The Tier 2 and Tier 3 PNs must be issued by Community Water Systems (CWSs) via mail or direct delivery and by NCWSs via posting, direct delivery, or mail. Primacy agencies may permit alternate methods. All PWSs must use additional delivery methods reasonably calculated to reach other consumers not notified by the first method.\*
- ▶ Notices for individual violations can be combined into an annual notice (including the Consumer Confidence Report [CCR], if PN requirements can still be met).
- ▶ Each PN:
  - ▶ Must be displayed in a conspicuous way.
  - ▶ Must not include overly technical language or very small print.
  - ▶ Must not be formatted in a way that defeats the purpose of the notice.
  - ▶ Must not include language that nullifies the purpose of the notice.
- ▶ If the notice is posted, it must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved.

\*PWSs should check with their primacy agency to determine the most appropriate delivery methods.

## Notices to New Customers

- ▶ All new billing units and customers must be notified of ongoing violations or situations requiring PN.

## Reporting and Recordkeeping

- ▶ PWSs have 10 days to send a certification of compliance and a copy of the completed notice to the primacy agency.
- ▶ PWS and primacy agency must keep notices on file for 3 years.

## The Required Elements of a Public Notice

### IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

#### Tests Showed Presence of Coliform Bacteria

The Jonesville Water System routinely monitors for coliform bacteria. During the month of July, 7 percent of our samples tested positive. The standard is that no more than 5 percent of samples may test positive.

#### What should I do?

- **You do not need to boil your water or take other corrective actions.** However, if you have specific health concerns, consult your doctor.
- You do not need to use an alternate (e.g., bottled) water supply.
- People with severely compromised immune systems, infants, pregnant women, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

#### What does this mean?

This is not an emergency. If it had been, you would have been notified immediately. Coliform bacteria are generally not harmful themselves. *Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.*

Usually, coliforms are a sign that there could be a problem with the system's treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or *E. coli*, are present. We did not find any of these bacteria in our subsequent testing.

#### What was done?

We took additional samples for coliform bacteria which all came back negative. As an added precaution, we chlorinated and flushed the pipes in the distribution system to make sure bacteria were eliminated. This situation is now resolved.

For more information, or to learn more about protecting your drinking water please contact John Jones at (502) 555-1212.

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

This is being sent by the Jonesville Water System.

State Water System ID#1234567. Date Distributed: 8/8/09

2. When the violation occurred →

6. Actions consumers should take →

3. Potential adverse health effects →

7. What is being done to correct the violation or situation →

10. Required distribution language →

← 1. Description of the violation

← 5. Should alternate water supplies be used

← 4. The population at risk

← 8. When the system expects to return to compliance

← 9. Phone number for more information



# Drinking Water Public Notification

## Public notification changes – Quick Look

*EPA published revised public notification regulations on May 4, 2000 (65 FR 25981), as required by the 1996 SDWA Amendments. These changes make notification easier and more effective for:*

**Consumers - Faster notice in emergencies, fewer notices overall, notices that are easier to understand.**

The new public notice requirements direct water suppliers to let people know within 24 hours of any situation that may immediately pose a health risk. Formerly, water systems had up to 72 hours to provide this notice. This change will make it easier for consumers to avoid drinking contaminated water. Water suppliers can now also combine notices for less serious problems and make notices shorter and easier to understand.

**States & water systems - concise standard language and notices.**

The new public notification requirements make the standard health effects language more concise. The new rule also gives water systems a standard set of procedures to follow, to make notices easier for water systems to issue, while providing better information for consumers.

Public notification helps to ensure that consumers will always know if there is a problem with their drinking water. These notices immediately alert consumers if there is a serious problem with their drinking water (e.g., a boil water emergency). For less serious problems (e.g., a missed water test), water suppliers must notify consumers in a timely manner. Public notice requirements have always been a part of the Safe Drinking Water Act; EPA recently changed these requirements to make them even more effective.

Water suppliers across the United States consistently deliver drinking water that meets EPA and state standards. Systems also test regularly for approximately 90 contaminants to make sure that no contaminant is present at levels which may pose a risk to human health. Water suppliers serving the same customers year-round summarize this information in an annual report which provides consumers with a snapshot of their everyday water quality.

Unfortunately, water quality can sometimes change. Despite the efforts of water suppliers, problems with drinking water can and do occur. When a problem with drinking water happens, the people who drink the water have a right to know what happened and what they need to do. The public notice requirements of the Safe Drinking Water Act require water suppliers to provide this notice.

As water suppliers test their water, they may discover that levels of certain contaminants are higher than the standards set by EPA or states. This might happen due to a change in local water conditions, heavy rainstorms, or an accidental spill of a hazardous substance. Water suppliers may also fail to



take one or a series of their required samples. Any time a water supplier fails to meet all EPA and state standards for drinking water (including missing required samples or taking them late), the water supplier must inform the people who drink the water.

### **How quickly do water systems have to send notices?**

Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers after a violation occurs. EPA specifies three categories, or tiers, of public notification. Depending on what tier a violation situation falls into, water systems have different amounts of time to distribute the notice and different ways to deliver the notice:

**Immediate Notice (Tier 1):** Any time a situation occurs where there is the potential for human health to be immediately impacted, water suppliers have 24 hours to notify people who may drink the water of the situation. Water suppliers must use media outlets such as television, radio, and newspapers, post their notice in public places, or personally deliver a notice to their customers in these situations.

**Notice as soon as possible (Tier 2):** Any time a water system provides water with levels of a contaminant that exceed EPA or state standards or that hasn't been treated properly, but that doesn't pose an immediate risk to human health, the water system must notify its customers as soon as possible, but within 30 days of the violation. Notice may be provided via the media, posting, or through the mail.

**Annual Notice (Tier 3):** When water systems violate a drinking water standard that does not have a direct impact on human health (for example, failing to take a required sample on time) the water supplier has up to a year to provide a notice of this situation to its customers. The extra time gives water suppliers the opportunity to consolidate these notices and send them with annual water quality reports (consumer confidence reports).

### **What information must be included in a notice?**

All notices must include:

- A description of the violation that occurred, including the potential health effects
- The population at risk and if alternate water supplies need to be used
- What the water system is doing to correct the problem
- Actions consumers can take
- When the violation occurred and when the system expects it to be resolved
- How to contact the water system for more information
- Language encouraging broader distribution of the notice

### **How often do violations occur that require a public notice?**

Serious water quality problems are rare. Approximately 25 percent of the nation's 170,000 public water suppliers violate at least one drinking water standard every year and are required to provide public notice. In fiscal year 1998, there were more than 124,000 of these violations. Ninety percent of these violations are due to the failure of water systems to complete all sampling in a timely manner. About one percent of the time, water systems incur a violation for a serious situation where notification must be provided immediately (Tier 1).



# Final Drinking Water Public Notification Regulations

## What is public notification?

Public notification is intended to ensure that consumers will always know if there is a problem with their drinking water. Public water systems must notify the people who drink their water if the level of a contaminant in the water exceeds Environmental Protection Agency (EPA) and State drinking water regulations, if there is a waterborne disease outbreak or any other situation that may pose a risk to public health, if the water system fails to test its water as required, or if the system has a variance or exemption from the regulations. Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers. EPA sets strict requirements on the *form, manner, content, and frequency* of public notices. Public notification is provided in addition to the annual water quality report (consumer confidence report, or CCR), which provides customers with a more complete picture of drinking water quality and system operations. The annual CCR tells consumers what's in their water, where it comes from, and where they can obtain additional information.

In fiscal year 1998, there were more than 124,000 violations of drinking water regulations requiring a public notice, involving over 25 percent of the 170,000 public water systems. Over 90 percent of the violations were for failure to fully meet the monitoring or testing procedure requirements. Fewer than 1.5 percent of the violations posed an immediate risk of adverse health effects from short-term exposure.

## What action is EPA taking?

EPA published final regulations in the Federal Register on May 4, 2000 (65 FR 25981) to revise the general public notification regulations. The revised regulations require faster notice in emergencies and fewer notices overall, and will result in notices that better communicate the potential health risks from drinking water violations and how to avoid such risks. The new rule will enable water systems to better target notices to the seriousness of the risk and make the existing notification process less burdensome for water suppliers and make notices easier to read for consumers.

The revised regulations (under 40 CFR Part 141, subpart Q) are effective on June 5, 2000. However, they do not apply to public water systems in States with approved primacy programs until May 6, 2002, unless a primacy State chooses to adopt the new requirements earlier. Public water systems where EPA directly implements the drinking water program (i.e., Wyoming, Washington, D.C., and Tribal lands) must start complying with the new regulations on October 31, 2000. EPA proposed the public notification rule revisions on May 13, 1999 (64 FR 25963).

## What changes were made to the public notification requirements?

**24-hour notice.** Water systems are required to distribute Tier 1 notices in 24 hours (instead of 72) for violations posing acute health risks due to short-term exposure. The number of violations and situations requiring a Tier 1 notice were significantly expanded from the previous rule.

**Consultation requirement.** Water systems must consult with the State or EPA within 24 hours of a Tier 1 violation to receive direction on subsequent requirements.

**30-day notice for other serious violations.** The notice deadline for violations of maximum contaminant levels or treatment techniques which do not pose an immediate threat to human health is extended from 14 days to 30 days, with possible extension to 3 months (Tier 2).

**12-month notice for non-serious violations.** The notice deadline for all other violations is extended from 3 months to 12 months, allowing a single annual report where applicable (Tier 3). Systems may choose to include this notice in their annual consumer confidence report.

**Simplified standard language.** The existing standard health effects language is simplified, consistent with the consumer confidence report (CCR) requirements. New standard language is now required for monitoring violations. Recipients of public notices are also encouraged, through standard distribution language in notices, to further distribute the notices to people who may not receive a notice (such as tenants or hospital patients).

**Streamlined distribution of notices.** Under the previous rule, water systems were required to use specific *multiple* delivery methods when distributing notices. The revised rule requires water systems to select a *single* minimum method for each tier from a regulatory list and to take additional steps of their own choosing that are reasonably calculated to reach all the other persons served. The minimum required methods of delivery listed in the revised regulation include the media, hand delivery, or posting for tier 1 notices, and direct mail, hand delivery, or posting for Tier 2 and Tier 3 notices.

**Certification of Compliance.** The revised rule requires a water system to certify to the State or primacy agency within 10 days that it has met all public notice requirements. The previous rule required only that a copy of the notices be sent to the State.

## How does the final regulation work?

The final regulation divides public notice into three tiers:

**Tier 1**, for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation.

**Tier 2**, for other violations and situations with potential to have serious, but not immediate, adverse effects on human health. Notice is required within 30 days, or as soon as possible, with extension of up to three months for resolved violations at the discretion of the State or primacy agency.

**Tier 3**, for all other violations and situations not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation, and may be part of a single annual report, including in some cases the annual CCR already required by EPA.

## What types of violations and situations are covered under each tier?

The final regulation contains an Appendix listing out every violation and situation requiring a public notice and its tier. The requirements for the timing of the public notice and the form and manner of its delivery are determined by the tier to which the violation or situation is assigned. For example, a total coliform violation where fecal coliform is present falls under Tier 1, which requires notification delivery within 24 hours by (at a minimum) appropriate broadcast media, posting, or hand delivery.

*See Table 1 for the list of violation types and situations identified under each tier.*

### **What are EPA requirements for the form, manner, and content of the public notices?**

The final rule sets minimum methods of delivery under each tier, but also requires that water systems take steps reasonably calculated to reach others not reached by the minimum method. Each notice must contain information addressing ten elements, including use of standard health effects language for maximum contaminant level (MCL) and treatment technique violations and standard language for monitoring violations. Public water systems serving a large proportion of non-English speaking consumers are also required to include information in the notice in languages other than English.

*See Figure 1 for an example of a completed notice, including the required ten elements.*

[PDF File](#) (1 pp, 7 K) ([About PDF](#))

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## **New Implementation Requirements**

### **Which public water systems are affected by the regulation?**

Once the rule goes into effect in each State, it will require all the public water systems to make changes to their current public notification programs to incorporate the revised regulations. The final rule will require States with primary enforcement authority to revise their approved primacy programs to adopt regulations no less stringent than the revised EPA regulations. The final regulation gives States considerable discretion, at their option, to work with EPA to tailor public notification programs to fit unique needs, policies, and programs.

### **How is EPA helping public water systems with new requirements?**

EPA and the Association of State Drinking Water Administrators (ASDWA) are issuing a *Public Notification Handbook* to assist water systems in implementing the revised regulation. This *Handbook* provide templates for notices and other aids to help water systems develop notices for violation situations.

[Figure 1: The Required Elements of a Public Notice PDF](#) (1 pp, 7 K) ([About PDF](#))

### **Tier 1 Public Notice - Required Within 24 Hours**

- Fecal coliform maximum contaminant level (MCL) violation or failure to test for fecal contamination after total coliform test is positive
- Nitrate/nitrite/combined nitrate and nitrite MCL violation or failure to take confirmation sample
- Chlorine dioxide maximum residual distribution level (MRDL) violation in distribution system or failure to take repeat samples in distribution system
- Exceedance of maximum allowable turbidity level resulting in an MCL or treatment technique (TT) violation, when the State or EPA determines a Tier 1 notice is warranted
- Special public notice for non-community water systems with nitrate exceedances between 10 mg/l and 20 mg/l, when allowed to exceed MCL (10 mg/l) by the State
- Waterborne disease outbreak or other waterborne emergency

- Other situations as determined by the primacy agency

#### **Tier 2 Public Notice - Required Within 30 Days (unless extended to 90 days by State)**

- All other MCL, MRDL, and TT violations not identified as a Tier 1 notice
- Monitoring and testing procedure violations, when the primacy agency requires a Tier 2 (rather than Tier 3) notice
- Failure to comply with variance and exemption (V&E) conditions

#### **Tier 3 Public Notice - Required Within 1 Year**

- All other monitoring or testing procedure violations not already requiring a Tier 1 or Tier 2 notice
- Operation under a V & E
- Special public notices (i.e., exceedance of the fluoride secondary maximum contaminant level (SMCL); announcing the availability of unregulated contaminant monitoring results)

[Figure 1: The Required Elements of a Public Notice PDF](#) (1 pp, 7 K) ([About PDF](#))

EPA 816-F-00-020

May 2000



# Ground Water Rule Factsheet: Public Notification, Consumer Confidence Report, and Special Notice Requirements for Community Water Systems

## WHAT IS THE GROUND WATER RULE?

The U.S. Environmental Protection Agency (EPA) published the Ground Water Rule (GWR) on November 8, 2006. One goal of the GWR is to provide increased protection against microbial pathogens, specifically bacterial and viral pathogens, in public water systems (PWSs) that use ground water. Instead of requiring disinfection for all ground water sources, the GWR establishes a risk-targeted approach to identifying ground water sources that are susceptible to fecal contamination. The GWR requires ground water systems (GWSs) at risk of microbial contamination to take corrective action to protect consumers from harmful bacteria and viruses. Notifying the public of potential risks is a key element of this risk-targeted approach. Procedures for notifying the public differ depending on whether a system is a community or a non-community water system (NCWS). This factsheet describes the GWR notification requirements for community water systems (CWSs).

## WHY DOES THE GWR REQUIRE PUBLIC NOTIFICATION?

The GWR addresses pathogens that can be found in GWSs and steps GWSs must take to protect their customers. Violations and situations of the GWR are also addressed by two other drinking water regulations related to notifying the public: the Public Notification (PN) Rule and the Consumer Confidence Report (CCR) Rule. The GWR requires PN for additional situations and violations related to ground water and adds to the required content of CCRs.

GWSs are required to notify the public because these circumstances can present moderate to severe risks to public health.

### The GWR, the PN Rule, and the CCR Rule

The PN Rule requires all PWSs to give notice to persons served by the water system for significant events, including violations of national primary drinking water regulations (NPDWRs) and waterborne emergencies.

- ✦ The GWR amends the PN Rule by requiring notice for detection of a fecal indicator in a ground water source sample, treatment technique violations, and monitoring violations.

The CCR Rule requires CWSs to provide CCRs to their customers, giving an annual report on water quality.

- ✦ The GWR amends the CCR requirements and includes language to be used when informing the public of significant deficiencies and fecal indicator-positive results in ground water source samples.

1. All other PWSs that do not fit these criteria are classified as NCWSs. For information on requirements for NCWSs, please see "Ground Water Rule Factsheet: Public Notification and Special Notice Requirements for Non-Community Water Systems."

## WHAT TYPES OF NOTIFICATION ARE REQUIRED BY THE GWR?

The type of notification required will differ depending on the severity of the situation or violation. The general categories of notification are:

- ✿ Tier 1, 2, or 3 PN
- ✿ Special Notice (in CCRs)
- ✿ CCR (other notice)

The state has the authority to alter the designated tier of a certain situation or violation, or to require additional or repeated notices.

The following table outlines the various situations or violations that require notification and the corresponding types of notification that are required.

Issue	Notification Required
Fecal indicator-positive ground water source sample <sup>1</sup>	Tier 1 PN, Special Notice in CCR, and CCR
Failure to take corrective action	Tier 2 PN, CCR
Failure to maintain at least 4-log treatment of viruses	Tier 2 PN, CCR
Failure to meet monitoring requirements	Tier 3 PN, CCR
Uncorrected significant deficiency <sup>2</sup>	Special Notice in CCR
Unaddressed fecal indicator-positive ground water source sample <sup>3</sup>	Special Notice in CCR
1. Consecutive systems served by the ground water source must also notify the public. 2. Systems must continue to notify the public annually until the significant deficiency has been corrected. 3. Systems must put a notice in the CCR annually until the positive source water sample has been addressed.	

Each issue outlined above can result from one of the following situations or requirements:

- ✿ **Fecal indicator-positive ground water source samples** are detected during 1) triggered source water monitoring, 2) additional source water monitoring (if it is required by the state), and 3) assessment source water monitoring (if it is required by the state). (See “Ground Water Rule Factsheet: Monitoring Requirements” for more information).
- ✿ **State corrective action requirements** can result from 1) the discovery of a significant deficiency, or 2) a fecal indicator-positive source water sample.
- ✿ **Failure to maintain at least 4-log treatment of viruses** occurs when a system is unable to correct treatment failures within 4 hours. This situation results in a treatment technique violation.
- ✿ **Monitoring violations** can result from failure to adhere to state requirements for 1) triggered source water monitoring, 2) additional source water monitoring, 3) assessment source water monitoring, and 4) compliance monitoring (for systems that maintain 4-log treatment of viruses). (See “Ground Water Rule Factsheet: Monitoring Requirements” for more information).

### Tiers of Public Notification

#### Tier 1 (Immediate notice):

This tier is for violations and situations with significant potential to have serious and immediate adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours.

#### Tier 2 (Notice as soon as possible):

This tier is for other violations and situations with the potential to have adverse effects on human health that do not pose an immediate risk. Notice is required within 30 days.

#### Tier 3 (Annual notice):

This tier is for all other violations and situations requiring a public notice not included in Tier 1 and Tier 2 or that do not have a direct impact on human health. These violations are typically monitoring and reporting violations. Notice is required within 12 months and may be included in the CCR, since CWSs must produce CCRs by July 1<sup>st</sup> of every year.

- ✿ Significant Deficiencies are identified by the state during sanitary surveys and on other occasions. (See “Ground Water Rule Factsheet: Sanitary Surveys” for more information).

## WHAT TYPES OF SITUATIONS REQUIRE NOTIFICATION UNDER THE GWR?

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### Situations requiring Tier 1 PN

- ✿ A system is notified of a fecal indicator-positive ground water source sample (either a triggered source water monitoring sample, one of its five additional samples required by a positive triggered source water monitoring sample, or an assessment source water monitoring sample) that is not invalidated by the state.
- ✿ A system has a replacement source water sample that is fecal indicator-positive.
  - ▶ For these types of situations, CWSs must also place a *Special Notice* in the year’s CCR and must add the fecal indicator-positive result to the *regulated contaminant table* in the CCR.

### Situations requiring Tier 2 PN

- ✿ A GWS has a treatment technique (TT) violation under the GWR. TT violations result from:
  - Failing to comply with or be on a compliance schedule for a state-approved *corrective action plan* within *120 days* of being notified of a *significant deficiency*.
  - Failing to comply with or be on a compliance schedule for a state-approved *corrective action plan* within *120 days* of being notified of a *fecal indicator-positive source water sample*.
  - Failing to maintain at least 4-log treatment of viruses *for more than 4 hours*.
    - ▶ CWSs that have TT violations must also place *information about the violation* in the year’s CCR.

### Situations requiring Tier 3 PN

- ✿ A GWS fails to meet GWR monitoring requirements if the system:
  - Fails to conduct *triggered source water monitoring* within *24 hours* of being notified of a total coliform-positive routine sample.
  - Fails to collect *five additional samples* after a fecal indicator-positive triggered source water sample (unless the state requires corrective action).
  - Fails to collect a *replacement source water sample* within *24 hours* of being notified that a fecal indicator-positive sample has been invalidated by the state.
  - Fails to conduct or follow the requirements for *assessment source water monitoring* as directed by the state for *existing or new sources* (coming into services after November 30, 2009).
- ✿ A GWS fails to meet compliance monitoring requirements if the system:
  - Does not conduct triggered source water monitoring and fails to conduct monitoring to demonstrate compliance with *4-log treatment* requirements.
    - ▶ CWSs that violate monitoring requirements must also place *information about the monitoring violation* in the year’s CCR.



### Situations requiring Special Notice

#### ☀ Fecal Indicator-Positive Source Water Sample.

- A CWS is notified of a fecal indicator-positive **triggered source water sample** that is not invalidated by the state.
- A CWS is notified that one of its required **five additional samples** that is fecal indicator-positive.
- A CWS is notified that an **assessment source water monitoring sample** is fecal indicator-positive.

#### ☀ Uncorrected significant deficiency or unaddressed fecal contamination.

- A CWS is unable to correct a significant deficiency or address the fecal contamination before the next CCR is distributed.

- ▶ CWSs must include the Special Notice in their CCR and must continue to **notify the public annually** until the significant deficiency or the fecal contamination has been addressed.

### What special elements must be included in a

- ▶ The **nature** of the significant deficiency or the source of the fecal contamination (if known).
- ▶ The **date** the significant deficiency was identified by the state or the **dates** of the fecal indicator-positive ground water source samples.
- ▶ If the fecal contamination has been **addressed** and the **date** of such action.
- ▶ For each significant deficiency or fecal contamination, the state-approved **plan and schedule for correction**, including interim measures, progress to date, and any interim measures completed.
- ▶ The **potential health effects** of a valid fecal indicator-positive ground water source sample (using the health effects language of Appendix A of subpart O).
- ▶ For GWSs with large populations of non-English speaking consumers, **information on the importance of the notice** in the appropriate language(s), as determined by the state.

## WHAT ARE THE NOTIFICATION REQUIREMENTS?

Each category of notification has different requirements. CWSs may use a variety of delivery methods as long as these methods have been approved by the state and are used to reach as many consumers as possible. The following table describes the GWR notification requirements.

Notification Requirements				
Notice Type	Deadline for Initial Notice	Repeated Notices <sup>1</sup>	Consultation with the State <sup>2</sup>	Delivery Methods <sup>3</sup>
Tier 1 PN	24 hours	As dictated by the state	24 hours	☀ Broadcast media (radio or television), hand delivery, posting, or any other method as needed to reach as many consumers as possible.
Tier 2 PN	30 days	Every 3 months	Within 48 hours	☀ Mail, hand delivery, or any other method as needed to reach as many consumers as possible.
Tier 3 PN	1 year <sup>4</sup>	Annually	As soon as is practical/possible	☀ Mail, hand delivery (public notice delivery may be provided by CCR if one year requirement is met), or any other method as needed to reach as many consumers as possible.
Special Notice	With the year's CCR	Annually	As soon as is practical/possible	☀ A special notice must be placed in the CCR and must include the special elements described above.
CCR (other notice)	With the year's CCR	Annually	As soon as is practical/possible	☀ Information about fecal indicator detections, TT violations, and monitoring violations must also be included in the CCR.

1. Repeated notices are required if the violation or situation persists, unless otherwise directed by the primacy agency. Posted notices must remain posted and may need periodic updating.

2. Systems are required to send a copy of the PN to the state within 10 days of the notification. Systems must also keep documentation of public notices as required under § 141.403(a)(7) for a period of not less than 3 years.

3. Primacy agencies may approve other methods.

4. EPA recommends consolidating all Tier 3 notifications required within a given year into one notice as long as the notice is issued within 12 months of the earliest violation.

## WHAT IS THE STATE'S ROLE IN GWR NOTIFICATION?

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State primacy agencies can serve as a valuable resource for helping systems maintain compliance with the GWR. States also have authority to determine the appropriate notification requirements for a GWS following a situation or violation. Under the GWR, states must:

- ✿ Be available to consult with GWSs after a significant deficiency has been identified or a fecal indicator-positive sample has been detected. (However, GWSs must still notify the public by the required deadline even if the state has not been consulted.)
- ✿ Approve notification processes.

Under this rule states can:

- ✿ Require a more stringent PN tier for certain violations if it is deemed necessary to protect public health.
- ✿ Invalidate a positive ground water source sample if it is determined that the sample is not related to source water quality (thus, not requiring notification unless an additional sample is positive).
- ✿ Require systems to distribute additional notices if it is deemed necessary.

## ADDITIONAL GUIDANCE MATERIALS

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The following guidance materials for states and PWSs have been released or will be released in 2008:

**Ground Water Rule: A Quick Reference Guide** - This guide provides a description of the GWR and includes critical deadlines and requirements.

[www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Ground Water Rule Factsheets** - Including factsheets on GWR general requirements, monitoring requirements, and Public Notice, Consumer Confidence Reports, and Special Notices.

**Ground Water Sanitary Survey Guidance Manual. November 2007. EPA 815-D-07-006** - This guidance provides states, tribes, and other primacy agencies with a brief review of the sanitary survey regulatory provisions, give examples of what may constitute a significant deficiency, and provide a checklist of elements that should be evaluated during the course of a sanitary survey inspection.

[www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Source Water Assessment Guidance Manual. September 2007. EPA 815-R-07-023** - This guidance provides states, tribes, and other primacy agencies with a brief review of hydrogeologic sensitivity assessments, an overview of the characteristics of a sensitive aquifer, information about how source water assessments may be used, and information about how to determine if a sensitive aquifer has a hydrogeologic barrier. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Ground Water Rule Source Water Monitoring Methods Guidance Manual. July 2007. EPA 815-R-07-019** - This guidance provides GWSs, states, tribes, and other primacy agencies with a brief review of the source water monitoring provisions. Primacy agencies may select fecal indicators (e.g., *E. coli*, enterococci, coliphage) that systems would be required to test for in the ground water source sample. The source water monitoring guidance manual provides criteria to assist primacy agencies in their determination of which fecal indicator(s) may be most appropriate.

[www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Corrective Action Guidance Manual (under development)** - This guidance will provide states, tribes, other primacy agencies and GWSs with an overview of the treatment technique requirements of the GWR. The guidance manual will provide assistance with determining the information that should be included in a system's corrective action plan.

**Consecutive System Guide for the Ground Water Rule. July 2007. EPA 815-R-07-020** - This guidance describes the regulatory requirements of the GWR that apply to wholesale GWSs and the consecutive systems that receive and distribute that ground water supply.  
[www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Complying with the Ground Water Rule: Small Entity Compliance Guide: One of the Simple Tools for Effective Performance (STEP) Guide Series. July 2007. EPA 815-R-07-018** - This document is intended to be an official compliance guide to the GWR for small PWSs, as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This guide contains a general introduction and background for the GWR, describes the specific requirements of the GWR and provides information on how to comply with those requirements. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

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For additional information, please contact the Safe Drinking Water Hotline at 1-800-426-4791, or visit [www.epa.gov/safewater/disinfection/gwr](http://www.epa.gov/safewater/disinfection/gwr).



# Ground Water Rule Factsheet: Public Notification and Special Notice Requirements for Noncommunity Water Systems

## WHAT IS THE GROUND WATER RULE?

The U.S. Environmental Protection Agency (EPA) published the Ground Water Rule (GWR) on November 8, 2006. One goal of the GWR is to provide increased protection against microbial pathogens, specifically bacterial and viral pathogens, in public water systems (PWSs) that use ground water (or ground water systems [GWSs]). Instead of requiring disinfection for all ground water sources, the GWR establishes a risk-targeted approach to identifying ground water sources that are susceptible to fecal contamination. The GWR requires GWSs at risk of microbial contamination to take corrective action to protect consumers from harmful bacteria and viruses. Notifying the public of potential risks is a key element of this risk-targeted approach. Procedures for notifying the public differ depending on whether a system is a community or a noncommunity water system (NCWS). This factsheet describes the GWR notification requirements for NCWSs.

A system is a NCWS if it is a PWS that is not connected to 15 or more year-round residences or does not serve 25 or more persons in a residential setting on a year-round basis.<sup>1</sup> A NCWS may be a transient non-community water system or a nontransient noncommunity water system.

## WHY DOES THE GWR REQUIRE PUBLIC NOTIFICATION?

The GWR addresses pathogens that can be found in GWSs and the steps that systems must take to protect their customers. The GWR requires NCWSs to make public notification (PN) for a number of situations and violations related to ground water.

GWS are required to notify the public because these and other circumstances can present risks to public health.

### The GWR and the PN Rule

The PN Rule requires PWSs to give notice to persons served by the water system for significant events, including violations of national primary drinking water regulations (NPDWRs) and waterborne emergencies.

The GWR amends the PN Rule by requiring notice for detection of a fecal indicator in a ground water source sample, treatment technique violations, and monitoring violations.

## WHAT TYPES OF NOTIFICATION ARE REQUIRED BY THE GWR?

The type of notification required will differ depending on the severity of the situation or violation. There are two general categories of notification required by the GWR for NCWSs:

- ☀ Tier 1, 2, or 3 PN
- ☀ Special Notice

The state also has the authority to alter the designated tier of a certain violation or to require additional or repeated notices.

1. Systems that do not fit these criteria are classified as community water systems (CWSs). For information on requirements for CWSs, please see "Ground Water Rule Factsheet: Public Notification, CCR, and Special Notice Requirements for Community Water Systems."

## WHAT TYPES OF SITUATIONS REQUIRE PUBLIC NOTIFICATION UNDER THE GWR?

The following table outlines the various situations or violations that require notification to the public and the corresponding types of notification required.

Issue	Notification Required
Fecal indicator-positive ground water source sample <sup>1</sup>	Tier 1 PN
Failure to take corrective action	Tier 2 PN
Failure to maintain at least 4-log treatment of viruses	Tier 2 PN
Failure to meet monitoring requirements	Tier 3 PN
Uncorrected significant deficiency <sup>2</sup>	Special Notice
1. Consecutive systems served by the ground water source must also notify the public. 2. Systems must continue to notify the public annually until the significant deficiency has been corrected.	

- ✿ **Fecal indicator-positive ground water source samples** are detected during 1) triggered source water monitoring, 2) additional source water monitoring (optional), or 3) assessment source water monitoring (if it is required by the state). (See “Ground Water Rule Factsheet: Monitoring Requirements” for more information.)
- ✿ **State requirements for corrective action** can result from 1) the discovery of a significant deficiency or 2) a fecal indicator-positive source water sample.
- ✿ **Failure to maintain at least 4-log treatment of viruses** occurs when a system is unable to correct system failures within 4 hours. This situation results in a treatment technique violation.
- ✿ **Monitoring violations** can result from failure to adhere to state requirements for 1) triggered source water monitoring, 2) additional source water monitoring, 3) assessment source water monitoring, or 4) compliance monitoring for systems that maintain 4-log treatment of viruses. (See “Ground Water Rule Factsheet: Monitoring Requirements” for more information.)
- ✿ **Significant deficiencies** are identified by the state during sanitary surveys and on other occasions. (See “Ground Water Rule Factsheet: Sanitary Surveys” for more information.)

### Tiers of Public Notification

#### Tier 1 (Immediate notice):

This tier is for violations and situations with significant potential to have serious and immediate adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours.

#### Tier 2 (Notice as soon as possible):

This tier is for other violations and situations with the potential to have adverse effects on human health that do not pose an immediate risk. Notice is required within 30 days.

#### Tier 3 (Annual notice):

This tier is for all other violations and situations requiring public notice not included in Tier 1 and Tier 2 or that do not have a direct impact on human health. These violations are typically monitoring and reporting violations. Notice is required within 12 months.

### Situations requiring Tier 1 PN

- ✿ A system is notified of a **fecal indicator-positive ground water source sample** (either a triggered source water monitoring sample, one of its **five additional samples** required by a positive triggered source water monitoring sample, or an assessment source water monitoring sample) *that is not invalidated by the state*.
- ✿ A system has a **replacement source water sample** that is fecal indicator-positive.

### Situations requiring Tier 2 PN

- ✿ A system has a **treatment technique (TT)** violation under the GWR. TT violations result from:
  - Failing to comply with or be on a compliance schedule for a state-approved *corrective action plan* within **120 days** of being notified of a *significant deficiency*.
  - Failing to comply with or be on a compliance schedule for a state-approved *corrective action plan* within **120 days** of being notified of a *fecal indicator-positive source water sample*.
  - Failing to maintain at least 4-log treatment of viruses *for more than 4 hours*.

### Situations requiring Tier 3 PN

- ✿ A GWS fails to meet GWR **monitoring** requirements if the system:
  - Fails to conduct *triggered source water monitoring* within **24 hours** of being notified of a total coliform-positive routine sample.
  - Fails to collect **five additional samples** after a fecal indicator-positive triggered source water sample (unless the state requires corrective action).
  - Fails to collect a *replacement source water sample* within **24 hours** of being notified that a fecal indicator-positive sample has been invalidated by the state.
  - Fails to conduct or follow the requirements for **assessment source water monitoring** as directed by the state for **existing or new sources** (coming into service after November 30, 2009).
- ✿ A GWS fails to meet **compliance monitoring** requirements if the system:
  - Fails to conduct monitoring to demonstrate compliance with **4-log treatment** requirements.

### Situations requiring Special Notice

- ✿ **Uncorrected significant deficiency.**
  - A system is unable to correct a significant deficiency within 1 year of being notified of the significant deficiency.
  - The system must continue to **notify the public annually** until the significant deficiency has been addressed.
  - A state may direct a system to make special notice even if the significant deficiency has been corrected.

#### What must be included in a Special Notice?

- ➔ The **nature** of the significant deficiency.
- ➔ The **date** the significant deficiency was identified by the state.
- ➔ For each significant deficiency, the state-approved **plan and schedule for correction**, including interim measures, progress to date, and any interim measures completed.
- ➔ For GWSs with large populations of non-English speaking consumers, **information on the importance of the notice** in the appropriate language(s), as determined by the state.

## WHAT ARE THE NOTIFICATION REQUIREMENTS?

Each category of notification has different requirements. NCWSs may use a variety of delivery methods as long as these methods have been approved by the state and are used to reach as many consumers as possible. The following table describes the GWR notification requirements.



Notification Requirements				
Notice Type	Deadline for initial notice	Repeated Notices <sup>1</sup>	Consultation with the State <sup>2</sup>	Delivery Methods <sup>3</sup>
Tier 1 PN	24 hours	As dictated by the state	Within 24 hours	☀ Broadcast media (radio or television), hand delivery, posting, or any other method as needed to reach as many consumers as possible.
Tier 2 PN	30 days	Every 3 months	Within 48 hours	☀ Posting, hand delivery, or mail, or any other method as needed to reach as many consumers as possible.
Tier 3 PN	1 year <sup>4</sup>	Annually	As soon as is practical/possible	☀ Posting, hand delivery, mail or any other method as needed to reach as many consumers as possible.
Special Notice	1 year	Annually	As soon as is practical/possible	☀ Posting, hand delivery, mail or any other method as needed to reach as many consumers as possible.
1. Repeated notices are required if the violation or situation persists, unless otherwise directed by the primacy agency. Posted notices must remain posted and may need periodic updating. 2. Systems are required to send a copy of the PN to the state within 10 days of the notification. Systems must also keep documentation of public notices as required under § 141.403(a)(7) for a period of not less than 3 years. 3. Primacy agencies may approve other methods. 4. EPA recommends consolidating all Tier 3 notifications required within a given year into one notice as long as the notice is issued within 12 months of the earliest violation.				

## WHAT IS THE STATE'S ROLE IN GWR NOTIFICATION?

State primacy agencies can serve as a valuable resource for helping systems maintain compliance with the GWR. States also have authority to determine the appropriate notification requirements for a GWS following a situation or violation. Under the GWR, states must:

- ☀ Be available to consult with GWSs after a significant deficiency has been identified or a fecal indicator-positive sample has been detected. (However, GWSs must still notify the public by the required deadline even if consultation has not occurred.)
- ☀ Determine the appropriate method(s) for NCWSs to inform the public of uncorrected significant deficiencies in their Special Notices.
- ☀ Approve notification processes for noncommunity water systems.

Under this rule states can:

- ☀ Require a more stringent PN tier (e.g. Tier 1 instead of Tier 2) for certain violations if it is deemed necessary to protect public health.
- ☀ Invalidate a positive ground water source sample if it is determined that the sample is not related to source water quality (thus, not requiring notification unless an additional sample is positive).
- ☀ Require systems to distribute additional notices if it is deemed necessary.

## ADDITIONAL GUIDANCE MATERIALS

The following guidance materials for states and PWSs have been released or will be released in 2008:

**Ground Water Rule: A Quick Reference Guide** - This guide provides a description of the GWR and includes critical deadlines and requirements.

[www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Ground Water Rule Factsheets** - Including factsheets on GWR general requirements, monitoring requirements, and Public Notice, Consumer Confidence Reports, and Special Notices.

**Ground Water Sanitary Survey Guidance Manual. November 2007. EPA 815-D-07-006** - This guidance provides states, tribes, and other primacy agencies with a brief review of the sanitary survey regulatory provisions, give examples of what may constitute a significant deficiency, and provide a checklist of elements that should be evaluated during the course of a sanitary survey inspection. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Source Water Assessment Guidance Manual. September 2007. EPA 815-R-07-023** - This guidance provides states, tribes, and other primacy agencies with a brief review of hydrogeologic sensitivity assessments, an overview of the characteristics of a sensitive aquifer, information about how source water assessments may be used, and information about how to determine if a sensitive aquifer has a hydrogeologic barrier. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Ground Water Rule Source Water Monitoring Methods Guidance Manual. July 2007. EPA 815-R-07-019** - This guidance provides GWSs, states, tribes, and other primacy agencies with a brief review of the source water monitoring provisions. Primacy agencies may select fecal indicators (e.g., *E. coli*, enterococci, coliphage) that systems would be required to test for in the ground water source sample. The source water monitoring guidance manual provides criteria to assist primacy agencies in their determination of which fecal indicator(s) may be most appropriate. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Corrective Action Guidance Manual (under development)** - This guidance will provide states, tribes, other primacy agencies and GWSs with an overview of the treatment technique requirements of the GWR. The guidance manual will provide assistance with determining the information that should be included in a system's corrective action plan.

**Consecutive System Guide for the Ground Water Rule. July 2007. EPA 815-R-07-020** - This guidance describes the regulatory requirements of the GWR that apply to wholesale GWSs and the consecutive systems that receive and distribute that ground water supply. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

**Complying with the Ground Water Rule: Small Entity Compliance Guide: One of the Simple Tools for Effective Performance (STEP) Guide Series. July 2007. EPA 815-R-07-018** - This document is intended to be an official compliance guide to the GWR for small PWSs, as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This guide contains a general introduction and background for the GWR, describes the specific requirements of the GWR and provides information on how to comply with those requirements. [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

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For additional information, please contact the Safe Drinking Water Hotline at 1-800-426-4791, or visit [www.epa.gov/safewater/disinfection/gwr](http://www.epa.gov/safewater/disinfection/gwr).



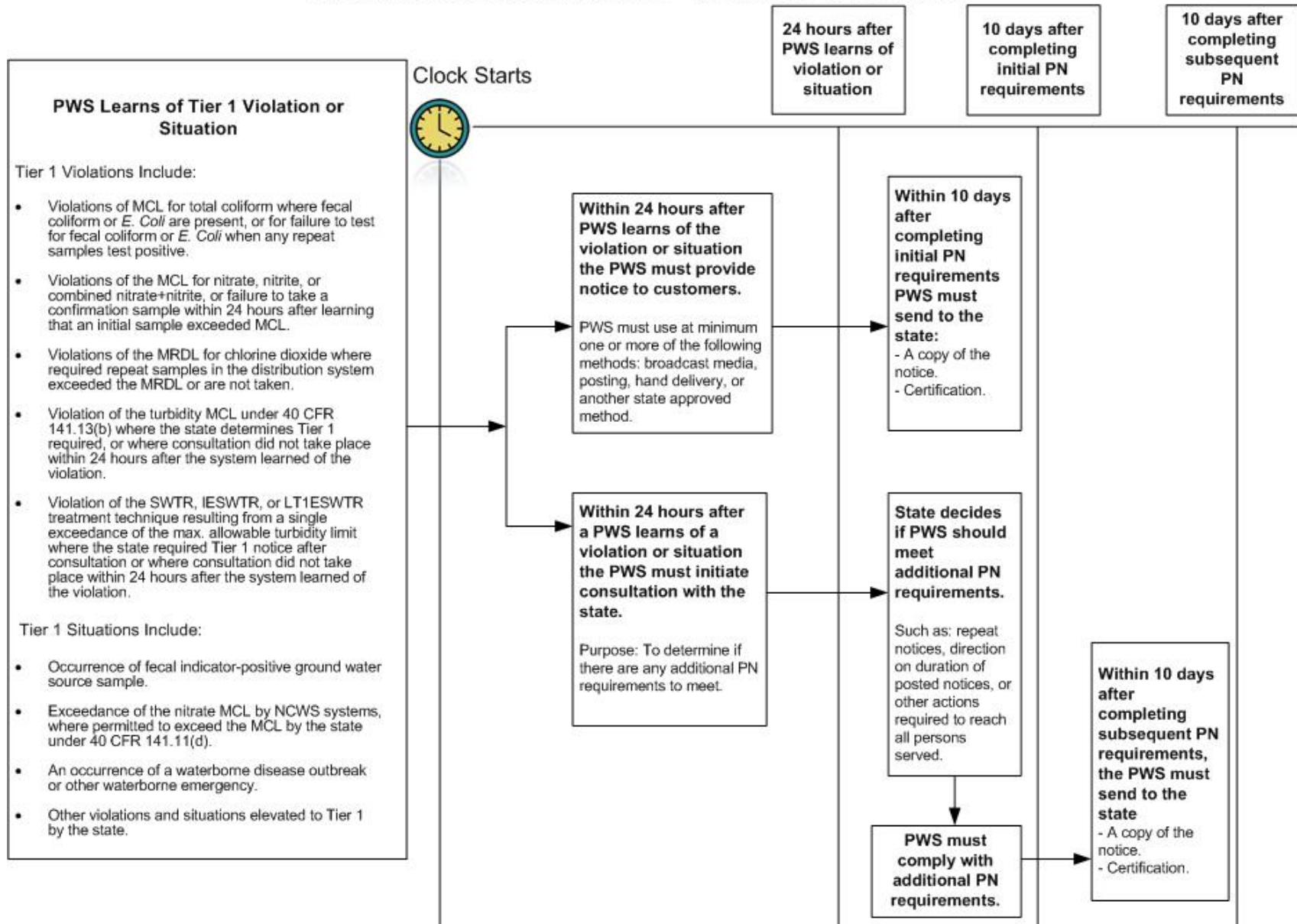
# **Appendix D**

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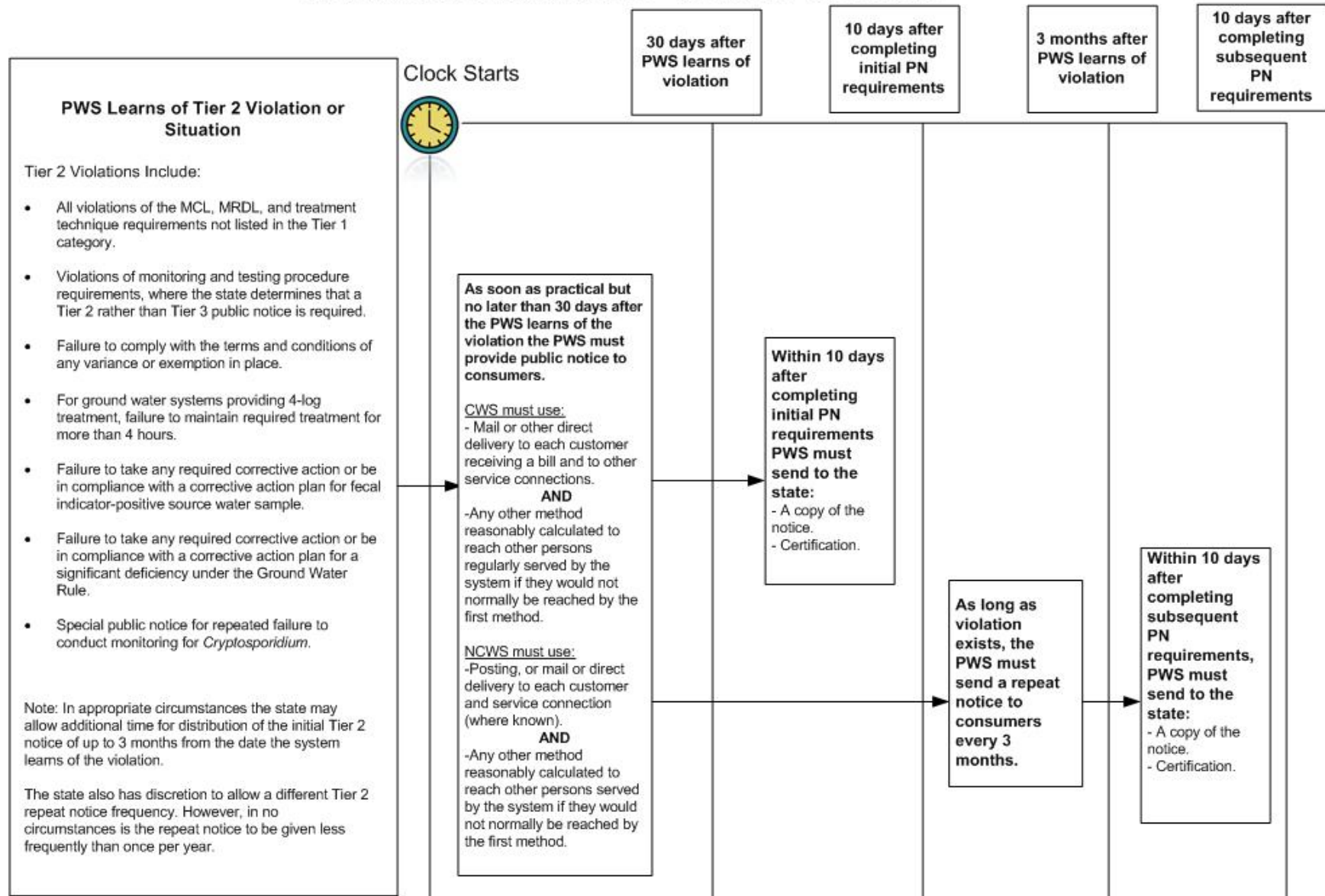
## **Flowcharts**

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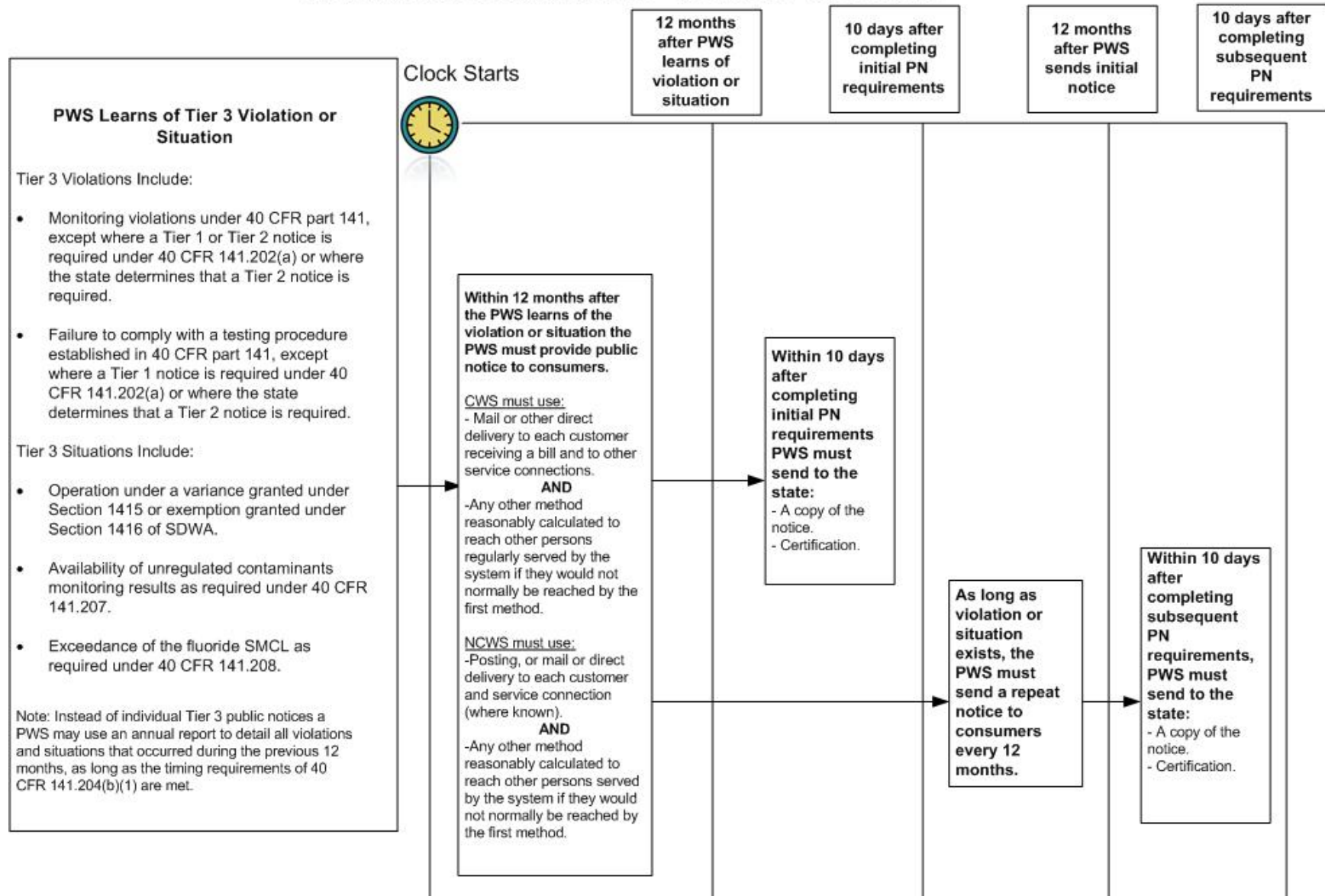
**Flowchart 1: Tier 1 Public Notices – Timeline for PWS Actions**



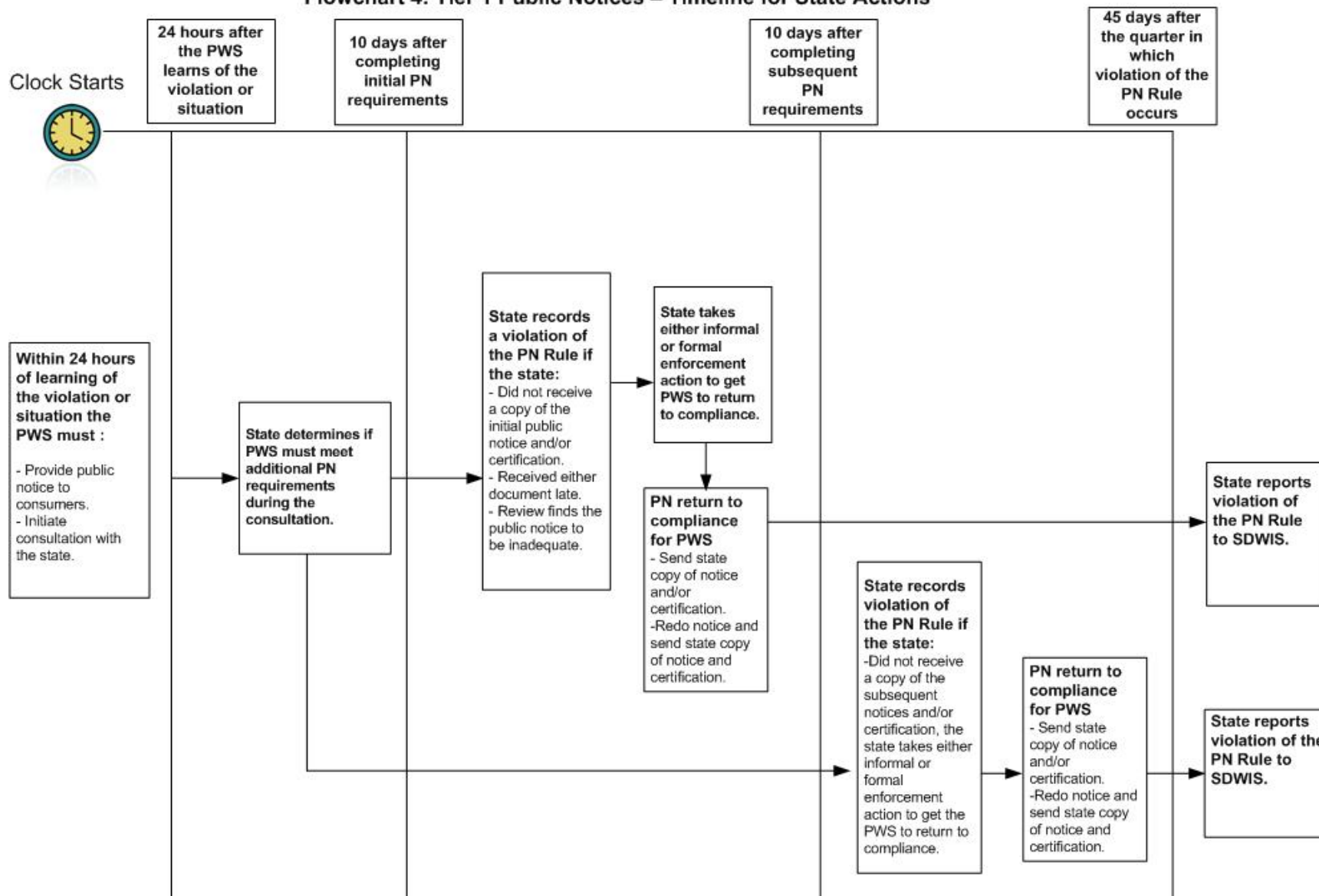
**Flowchart 2: Tier 2 Public Notices – Timeline for PWS Actions**



**Flowchart 3: Tier 3 Public Notices – Timeline for PWS Actions**

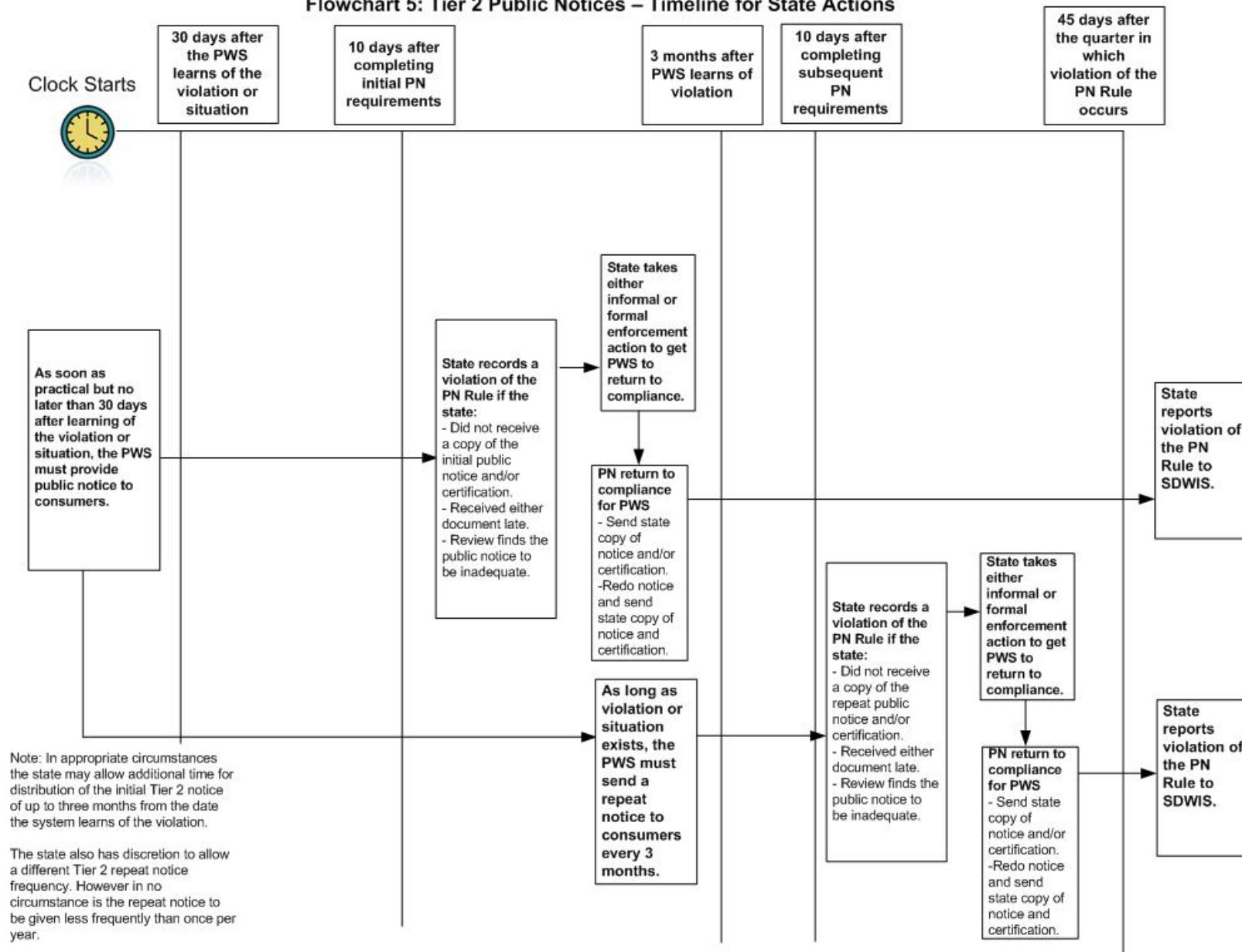


**Flowchart 4: Tier 1 Public Notices – Timeline for State Actions**

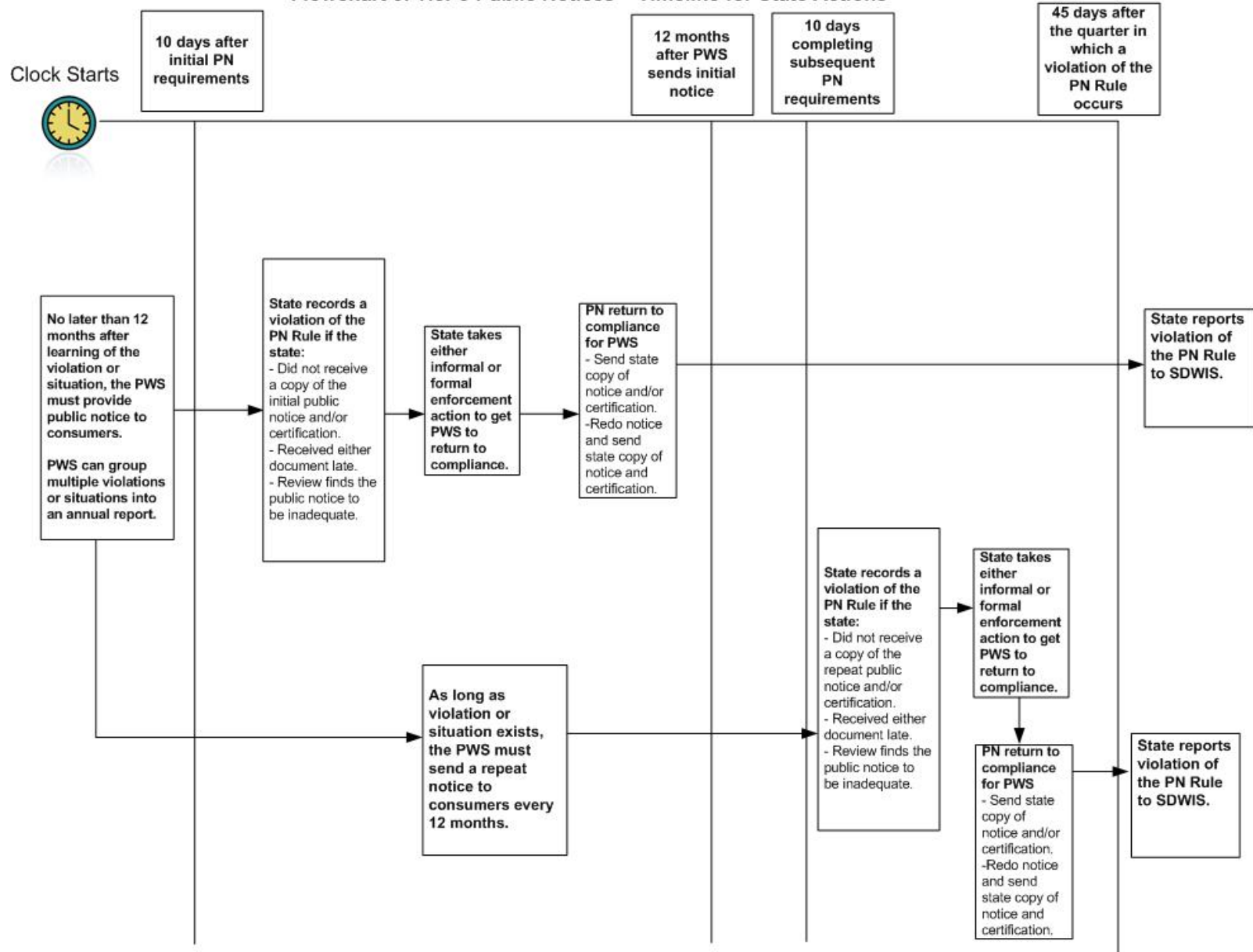




**Flowchart 5: Tier 2 Public Notices – Timeline for State Actions**



Flowchart 6: Tier 3 Public Notices – Timeline for State Actions





## **Appendix E**

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# **Example Forms, Letters and Checklists**

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# **State Primacy Revision Checklist**

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Required Program Elements		Revision to State Program	EPA Findings/Comments
§142.10	Primary Enforcement - Definition of Public Water System*		
§142.10(a)	Regulations No Less Stringent		
§142.10(b)(1)	Maintain Inventory		
§142.10(b)(6)(i)	Authority to Apply Regulations		
§142.10(b)(6)(ii)	Authority to Sue in Courts of Competent Jurisdiction		
§142.10(b)(6)(iii)	Right of Entry		
§142.10(b)(6)(iv)	Authority to Require Records		
§142.10(b)(6)(v)	Authority to Require Public Notification		
§142.10(b)(6)(vi)	Authority to Assess Civil and Criminal Penalties		
§142.10(c)	Maintenance of Records		
§142.10(f)	Administrative Penalty Authority*		
§142.10(g)	Electronic Reporting Regulations**		

\* Requirement from the 1996 Amendments. Regulations published in the April 28, 1998 *Federal Register*.

\*\* Regulations published in the October 13, 2005 *Federal Register*.

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## **Example Extension Request Checklist**

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{Date}

{Regional Administrator}

Regional Administrator

U.S. EPA Region {Region}

{Street Address}

{City, State, Zip}

RE: Request/approval for an Extension Agreement

Dear {Regional Administrator}:

The State of {State} is requesting an extension to the date that final primacy revisions are due to EPA for the Public Notification (PN) Rule until {insert date - no later than August 21, 2002}, as allowed by 40 CFR 142.12, and would appreciate your approval. Staff of the {State Department/Agency} have conferred with your staff and have agreed to the requirements listed below for this extension. This extension is being requested because the State of {State}:

- ☐ Is planning to group two or more program revisions into a single legislative or regulatory action.
- ☐ Currently lacks the legislative or regulatory authority to enforce the new or revised requirements.
- ☐ Currently lacks adequate program capability to implement the new or revised requirements.

{State Department/Agency} will be working with EPA to implement the PN Rule within the scope of its current authority and capability, as outlined in the six areas identified in 40 CFR 142.12(b)(3)(i-vi):

- i) Informing public water systems (PWSs) of the new EPA (and upcoming state) requirements and the fact that EPA will be overseeing implementation of the requirements until EPA approves the state revision.

State	EPA
_____	_____
_____	_____
_____	_____
_____	_____

- |       |       |   |
|-------|-------|---|
| _____ | _____ | Provide copies of regulation and guidance to other state agencies, PWSs, technical assistance providers, associations, or other interested parties. |
| _____ | _____ | Educate and coordinate with state staff, PWSs, the public, and other water associations about the requirements of this regulation.                  |
| _____ | _____ | Notify affected systems of their requirements under the PN Rule.  |
| _____ | _____ | Other:  |

- ii) Collecting, storing, and managing laboratory results, public notices, and other compliance and operation data required by the EPA regulations.

State	EPA
_____	_____
_____	_____
_____	_____
_____	_____

- |       |       |   |
|-------|-------|---|
| _____ | _____ | Devise a tracking system for PWS reporting pursuant to the PN Rule.                 |
| _____ | _____ | Keep PWSs informed of reporting requirements during development and implementation. |
| _____ | _____ | Report PN Rule violation and enforcement information to SDWIS as required.          |
| _____ | _____ | Other:  |

- iii) Assisting EPA in the development of the technical aspects of the enforcement actions and conducting informal follow-up on violations (telephones calls, letters, etc.).

State	EPA
_____	_____
_____	_____

- |       |       |   |
|-------|-------|---|
| _____ | _____ | Issue notices of violation (NOVs) for treatment technique and monitoring/ reporting violations of the PN Rule.  |
| _____ | _____ | Provide immediate technical assistance to PWSs with treatment technique, MCL and/or monitoring/reporting violations to try to bring them into compliance. |

_____	_____	Refer all violations to EPA for enforcement if they have not been resolved within 60 days of the incident that triggered the violation. Provide information as requested to conduct and complete any enforcement action referred to EPA.
_____	_____	Other:

iv) Providing technical assistance to PWSs.

State	EPA	
_____	_____	Conduct training within the state for PWSs on PN Rule requirements.
_____	_____	Provide technical assistance through written and/or verbal correspondence with PWSs.
_____	_____	Provide on-site technical assistance to PWSs as requested and needed to ensure compliance with this regulation.
_____	_____	Coordinate with other technical assistance providers and organizations to provide accurate information and aid in a timely manner.
_____	_____	Other:

v) Providing EPA with all information prescribed by the State Reporting Requirements in 40 CFR 142.15.

State	EPA	
_____	_____	Report any violations incurred by PWSs for this regulation each quarter.
_____	_____	Report any enforcement actions taken against PWSs for this regulation each quarter.
_____	_____	Report any variances or exemptions granted for PWSs for this regulation each quarter.
_____	_____	Other:

vi) For states whose request for an extension is based on a current lack of program capability to implement the new or revised requirements, taking the following steps to remedy the capability deficiency.

State	EPA	
_____	_____	Acquire additional resources to implement these regulations (list of specific steps being taken attached as <b>{List A}</b> ).
_____	_____	Provide quarterly updates describing the status of acquiring additional resources.
_____	_____	Other:

I affirm that the **{State Department/Agency}** will implement provisions of the PN Rule as outlined above.

\_\_\_\_\_

{ Agency Director or Secretary }	Date
----------------------------------	------

\_\_\_\_\_

**{Name of State Agency}**

I have consulted with my staff and approve your extension for the aforementioned regulation. I affirm that EPA Region **{Region}** will implement provisions of the PN Rule as outlined above.

\_\_\_\_\_

Regional Administrator	Date
------------------------	------

EPA Region **{Region}**

This Extension Agreement will take effect upon the date of the last signature.

## **Example of Attorney General's Statement**

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Model Language	
<p>I hereby certify, pursuant to my authority as (1) and in accordance with the Safe Drinking Water Act as amended, and (2), that in my opinion the laws of the [State/Commonwealth of (3)] [or tribal ordinances of (4)] to carry out the program set forth in the "Program Description" submitted by the (5) have been duly adopted and are enforceable. The specific authorities provided are contained in statutes or regulations that are lawfully adopted at the time this Statement is approved and signed and will be fully effective by the time the program is approved.</p>	
I.	<p>For States with No Audit Privilege and/or Immunity Laws</p> <p>Furthermore, I certify that [State/Commonwealth of (3)] has not enacted any environmental audit privilege and/or immunity laws.</p>
II.	<p>For States with Audit Laws that do Not Apply to the State Agency Administering the Safe Drinking Water Act</p> <p>Furthermore, I certify that the environmental [audit privilege and/or immunity law] of the [State/Commonwealth of (3)] does not affect the ability of (3) to meet enforcement and information gathering requirements under the Safe Drinking Water Act because the [audit privilege and/or immunity law] does not apply to the program set forth in the "Program Description." The Safe Drinking Water Act program set forth in the "Program Description" is administered by (5); the [audit privilege and/or immunity law] does not affect programs implemented by (5), thus the program set forth in the "Program Description" is unaffected by the provisions of [State/Commonwealth of (3)] [audit privilege and/or immunity law].</p>
III.	<p>For States with Audit Privilege and/or Immunity Laws that Worked with EPA to Satisfy Requirements for Federally Authorized, Delegated, or Approved Environmental Programs</p> <p>Furthermore, I certify that the environmental [audit privilege and/or immunity law] of the [State/Commonwealth of (3)] does not affect the ability of (3) to meet enforcement and information gathering requirements under the Safe Drinking Water Act because [State/Commonwealth of (3)] has enacted statutory revisions and/or issued a clarifying Attorney General's Statement to satisfy requirements for federally authorized, delegated, or approved environmental programs.</p>
<p>Seal of Office</p> <div style="text-align: right; margin-right: 100px;"> <p>_____ Signature</p> <p>_____ Name and Title</p> <p>_____ Date</p> </div> <p>(1) State Attorney General or attorney for the state if it has independent legal counsel.  (2) 40 CFR 142.11(a)(6)(i) for initial primacy applications or 40 CFR 142.12(c)(1)(iii) for primacy program revision applications.  (3) Name of state or commonwealth.  (4) Name of tribe.  (5) Name of state.</p>	